

PERSONAL SERVICES AND SUBLICENSE AGREEMENT BETWEEN THE COUNTY OF SHASTA AND COUNTY OF MODOC

This agreement is entered into between the County of Shasta, through its Department of Housing and Community Action Agency Programs, a political subdivision of the State of California (“County”) and County of Modoc, through its Department of Social Services (“Consultant”) (collectively, the “Parties” and individually a “Party”) for the purpose of participating in a collaborative effort known as the Homeless Management Information System (“HMIS”).

RECITALS

WHEREAS, the NorCal, CA-516 Homeless Continuum of Care (“CoC”) is an organization consisting of government agencies, non-profits, faith-based groups, and individuals who have an interest in homeless issues in the counties of Del Norte, Lassen, Modoc, Plumas, Shasta, Sierra and Siskiyou; and

WHEREAS, the CoC has designated the County to operate the CoC’s HMIS on behalf of the CoC as the Lead Agency; and

WHEREAS, County has agreed to be the Lead Agency; and

WHEREAS, County and Consultant both are participants in the CoC; and

WHEREAS, County has entered into a separate agreement with Wellsky Corporation, which agreement is dated and effective October 31, 2019, (entitled, “PERSONAL SERVICES AGREEMENT BETWEEN THE COUNTY OF SHASTA AND WELLSKY CORPORATION”; “Wellsky”), pursuant to which County has purchased licenses for ServicePoint for use by County and authorized users as designated by County within the CoC; and

WHEREAS, ServicePoint is a web-based HMIS software program designed to track, manage, coordinate, and client services; and

WHEREAS, County desires to provide to Consultant, and Consultant desires to use, one or more of the ServicePoint licenses purchased by County for the HMIS; and

WHEREAS, Consultant represents that it has the capability, experience, and expertise necessary to carry out the terms and conditions of this agreement.

NOW, THEREFORE, County and Consultant agree as follows:

Section 1A. DEFINITIONS.

- A. “Cloud Services” means, collectively, the Wellsky software as a service offering listed in this agreement and defined in the Documentation.

- B. “Confidential Information” means (i) the source and object code of all components of the System, (ii) the Documentation, (iii) the Test Scripts, (iv) the design and architecture of the database, and (v) all other information of a confidential or proprietary nature disclosed by one Party to the other Party in connection with this agreement which is either disclosed in writing and clearly marked as confidential at the time of disclosure or disclosed orally and clearly designated as confidential in a written communication to the receiving Party within 7 days following the disclosure. “Confidential Information” shall not include information that is any one or more of the following: (a) publicly available through no breach of this agreement, (b) independently developed or previously known to it, without restriction, prior to disclosure by the disclosing Party, (c) rightfully acquired from a third party not under an obligation of confidentiality.
- C. “Documentation” means the most recent documentation of the functional operation of ServicePoint, the Licensed Software and Cloud Services. A copy of the Documentation is available online at <https://portals.force.com/mediaware/login>.
- D. “HMIS” means Homeless Management Information System.
- E. “HUD” means the United States Department of Housing and Urban Development.
- F. “Licensed User” means a permitted user of the Licensed Software approved by the County’s System Administrator of Licensed Software, Sublicensed Software and Cloud Services.
- G. “Licensed Software” or “ServicePoint” means the HMIS called ServicePoint, the object code version of computer programs developed by Wellsky, including the modules ClientPoint, ResourcePoint, ActivityPoint, ShelterPoint, and SkanPoint and updates furnished to County by Wellsky pursuant to the County’s October 31, 2019, agreement with Wellsky, but excluding all Sublicensed Software or third-party software.
- H. “Sublicensed Software” shall mean those programs provided to Wellsky by a third party, which Wellsky sublicenses to County hereunder, for use with the Licensed Software, and any Updates thereto provided to County by Wellsky.
- I. “System Administrator” means the County employee or employees designated by the Housing and Community Action Programs Director who provides training and support for local agencies, monitors data quality, prepares reports as necessary for funding sources, and oversees HMIS duties.
- J. “Test Scripts” means Wellsky’s test scripts designed by Wellsky.
- K. “Work Product” means any technology, documentation, software, procedures developed, conceived, or introduced by Wellsky in the course of Wellsky performing Services, whether acting alone or in conjunction with County or its employees, Licensed Users, affiliates, or others designs, inventions, methodologies,

techniques, discoveries, know-how, show-how, and works of authorship, and all United States and foreign patents issued or issuable thereon, all copyrights and other rights in works of authorship, collections, and arrangements of data, mask work rights, trade secrets on a world-wide basis, trademarks, trade names, and other forms of corporate or product identification, and any division, continuation, modification, enhancement, derivative work or license of any of the foregoing.

Section 1. RESPONSIBILITIES OF CONSULTANT.

Pursuant to the terms and conditions of this agreement, Consultant shall:

- A. Comply with the HMIS Policies and Procedures Manual entitled “Redding/Shasta County Homeless Continuum of Care” (“Manual”), as may be amended from time to time in accordance with section 7. C. of this agreement. The Manual is attached to and incorporated to this agreement by reference as Attachment A.
- B. Complete concurrent with this agreement, execute and agree to be bound by the Inter-Agency HMIS Data Sharing Agreement included in Attachment A, Appendix F, which is incorporated hereto by reference.
- C. Timely enter correct, accurate, reliable, and complete client data into ServicePoint, including the modules ClientPoint, ResourcePoint, ActivityPoint, ShelterPoint, and SkanPoint, within the timeframe as specified in the Manual. Whenever feasible, Consultant shall upload client-provided or other relevant documents into the client’s respective ServicePoint record.
- D. Consultant, its employees, volunteers, and its Licensed Users, shall not:
 - 1. Sell, resell, lease, lend, or otherwise make available or accessible ServicePoint or the Cloud Services to a third party; and
 - 2. Modify, adapt, translate, or make derivative works of ServicePoint software application or Cloud Services; and
 - 3. Sublicense or operate ServicePoint or the Cloud Services software for timesharing, outsourcing, or service bureau operations.
- E. Only obtain, collect, share, disclose, or release information for an individual upon verification by Consultant that the individual has voluntarily consented to share, in writing, as evidenced by a signed HMIS Client Informed Consent and Release of Information Authorization. Consultant shall also prevent unauthorized access and use of the Cloud Services and shall also prevent and guard against unauthorized use, breach, access, disclosure, or dissemination of any and all content, information, records, and data stored or maintained in or by ServicePoint or the Licensed Software. In the event of any suspected or confirmed violation of this provision, Consultant shall immediately notify County and the System Administrator of such violation or breach and Consultant shall ensure that it takes all reasonable steps to promptly resolve and remedy said violation.

- F. Limit the number of its Licensed Users of ServicePoint to no more than the total number of licenses provided to Consultant under this agreement.
- G. Attend quarterly HMIS user meetings.
- H. Maintain familiarity, understanding, and compliance with all applicable laws, rules, regulations, and policies pertaining to HMIS and the provision of all services, actions, or obligations relating thereto.
- I. Take all other reasonably necessary steps, functions and work, as determined by County, as may be required for compliance with the Manual, HMIS rules and regulations, and as may otherwise be required in order for County to abide by the terms and conditions of the County's October 31, 2019 agreement with Wellsky.
- J. Be responsible for providing its own computer, computer equipment, and components necessary to effectively and properly utilize the Licensed Software.

Section 2. RESPONSIBILITIES OF COUNTY.

Pursuant to the terms and conditions of this agreement, County shall:

- A. Through its System Administrator, grant and provide to Consultant up to 3 limited term, non-exclusive, non-transferable ServicePoint user licenses provided that Consultant may obtain additional ServicePoint licenses as set forth in Section 3.
- B. Review quality of data entered by Consultant into ServicePoint in accordance with Attachment A.
- C. Host quarterly HMIS user meetings.
- D. Act as the "Lead Agency" in accordance with the Manual.
- E. Have no obligation to furnish or otherwise provide to Consultant any such computers, computer equipment, or components.

Section 3. COMPENSATION.

Consultant shall compensate County as follows:

- A. For the period of time between the effective date of this agreement and June 30, 2020, Consultant shall pay County \$0, provided that Consultant shall be entitled to pay for additional ServicePoint licenses beyond the number of licenses set forth in section 2.A, if additional licenses are available as determined by County, at a prorated cost of \$33.38 per month, or any fraction thereof, per license.
- B. For the period of July 1, 2020 through June 30, 2021, Consultant shall pay County \$442.50 per license. Consultant shall be entitled to pay for additional ServicePoint

licenses beyond the number of licenses set forth in section 2.A, if additional licenses are available as determined by County, at a prorated cost of \$36.88 per month, or any fraction thereof, per license.

- C. In no event whatsoever shall maximum compensation paid to County exceed \$100,000 during the term of this agreement and extensions thereof until June 30, 2021.
- D. Consultant's violation or breach of agreement terms may result in termination of Agreement.

Section 4. BILLING AND PAYMENT.

- A. County shall submit an invoice to Consultant on or before June 30, 2020, for the period of July 1, 2020 through June 30, 2021, and shall additionally submit an invoice or invoices on an as needed basis within 30 days after Consultant purchases additional licenses. With respect to each invoice, Consultant shall make payment to County within 30 days of the invoice date.
- B. Should Consultant, or state or federal government, disallow any amount claimed by County, County shall reimburse Consultant, or the state or federal government, as directed by Consultant or the state or federal government, for such disallowed cost.

Section 5. TERM OF AGREEMENT.

This agreement shall commence as of the last date it has been signed by both Parties and shall end June 30, 2021.

Section 6. TERMINATION OF AGREEMENT.

- A. If Consultant materially fail to perform Consultant's responsibilities under this agreement to the satisfaction of County, or if Consultant fails to fulfill in a timely and professional manner Consultant's responsibilities under this agreement, or if Consultant violates any of the terms or provisions of this agreement, then County shall have the right to terminate this agreement for cause effective immediately upon the County giving written notice thereof to Consultant. If termination for cause is given by County to Consultant and it is later determined that Consultant was not in default or the default was excusable, then the notice of termination shall be deemed to have been given without cause pursuant to paragraph B of this section.
- B. Either Party may terminate this agreement without cause on 30 days' written notice.

- C. Consultant may terminate this agreement immediately upon oral notice should funding cease or be materially decreased during the term of this agreement.
- D. County's right to terminate this agreement may be exercised by County's Executive Officer or his/her designee, or by the Director of the County's Department of Housing and Community Action Programs ("Director") or his/her designee.
- E. Should this agreement be terminated, Consultant shall promptly provide to County any and all finished and unfinished reports, data, studies, photographs, charts, and other documents prepared by Consultant pursuant to this agreement.
- F. Should this agreement be terminated, County shall promptly suspend Consultant access to ServicePoint software.
- G. Failure to use the Licensed Software and updates thereto in accordance with agreement, or applicable law, or both, is material breach of this agreement.

Section 7. ENTIRE AGREEMENT; AMENDMENTS; HEADINGS; EXHIBITS/APPENDICES.

- A. This agreement supersedes all previous agreements relating to the subject of this agreement and constitutes the entire understanding of the Parties hereto. Consultant shall be entitled to no other benefits other than those specified herein. Consultant specifically acknowledges that in entering into and executing this agreement, Consultant relies solely upon the provisions contained in this agreement and no others.
- B. No changes, amendments, or alterations to this agreement shall be effective unless in writing and signed by both Parties. However, minor amendments that do not result in a substantial or functional change to the original intent of this agreement and do not cause an increase to the maximum amount payable under this agreement may be agreed to in writing between Consultant and Director, provided that the amendment is in substantially the same format as the County's standard format amendment contained in the Shasta County Contracts Manual (Administrative Policy 6-101).
- C. Notwithstanding section 7.B. of this agreement, County may amend Attachment A by following the procedure established in Sections 4.2 and 4.3 of Attachment A.
- D. The headings that appear in this agreement are for reference purposes only and shall not affect the meaning or construction of this agreement.
- E. If any ambiguity, inconsistency, or conflict exists or arises between the provisions of this agreement and the provisions of any of this agreement's exhibits or appendices, the provisions of this agreement shall govern.

Section 8. NONASSIGNMENT OF AGREEMENT; NON-WAIVER.

Inasmuch as this agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or sublet any interest herein without the prior written consent of County. The waiver by County of any breach of any requirement of this agreement shall not be deemed to be a waiver of any other breach.

Section 9. EMPLOYMENT STATUS OF CONSULTANT.

During the entire term of this agreement, both Parties are to be construed to be an independent contractor, and nothing in this agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow either Party to exercise discretion or control over the professional manner in which either Party performs the work or services that are the subject matter of this agreement; provided, however, that the work or services to be provided by either Party shall be provided in a manner consistent with the professional standards applicable to such work or services. The sole interest of County is to insure that the work or services shall be rendered and performed in a competent, efficient, and satisfactory manner. Both Parties shall be fully responsible for payment of all taxes due to the State of California or the federal government. County shall not be liable for deductions for any amount for any purpose from Consultant's compensation. Consultant shall not be eligible for coverage under County's workers' compensation insurance plan nor shall Consultant be eligible for any other County benefit.

Section 10. INDEMNIFICATION.

To the fullest extent permitted by law, Consultant shall indemnify and hold harmless County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including, but not limited to, reasonable attorney's fees of County Counsel and counsel retained by County, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees arising from the work or the provision of services undertaken pursuant to this agreement by Consultant, or by any of Consultant's subcontractors, any person employed under Consultant, or under any subcontractor, or in any capacity, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of County. Consultant shall also, at Consultant's own expense, defend the County, its elected officials, officers, employees, agents, and volunteers, against any claim, suit, action, or proceeding brought against County, its elected officials, officers, employees, agents, and volunteers, arising from the work or the provision of services undertaken pursuant to this agreement by Consultant, or any of Consultant's subcontractors, any person employed under Consultant, or under any Subcontractor, or in any capacity. Consultant shall also defend and indemnify County for any adverse determination made by the Internal Revenue Service or the State Franchise Tax Board and/or any other taxing or regulatory agency and shall defend, indemnify, and hold harmless County with respect to Consultant's "independent contractor" status that would establish a liability on County for failure to make social security deductions or contributions or income tax withholding payments, or any other legally mandated payment. The provisions of this paragraph are intended to be interpreted as broadly as permitted by applicable law. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 11. INSURANCE COVERAGE.

- A. Without limiting Consultant's duties of defense and indemnification, Consultant and any subcontractor shall obtain, from an insurance carrier authorized to transact business in the State of California, and maintain continuously during the term of this agreement Commercial General Liability Insurance, including coverage for owned and non-owned automobiles, and other coverage necessary to protect County and the public with limits of liability of not less than \$1 million per occurrence; such insurance shall be primary as to any other insurance maintained by County.
- B. Consultant and any subcontractor shall obtain and maintain continuously required Workers' Compensation and Employer's Liability Insurance to cover Consultant, subcontractor, Consultant's partner(s), subcontractor's partner(s), Consultant's employees, and subcontractor's(s) employees with an insurance carrier authorized to transact business in the State of California covering the full liability for compensation for injury to those employed by Consultant or subcontractor. Each such policy shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against the *County, its elected officials, officers, employees, agents, and volunteers* which might arise in connection with this agreement. Consultant hereby certifies that Consultant is aware of the provisions of section 3700 of the Labor Code, which requires every employer to insure against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and Consultant shall comply with such provisions before commencing the performance of the work or the provision of services pursuant to this agreement.
- C. Consultant shall obtain and maintain continuously a policy of Errors and Omissions coverage with limits of liability of not less than \$1 million per occurrence.
- D. Consultant shall require subcontractors to furnish satisfactory proof to County that liability and workers' compensation and other required types of insurance have been obtained and are maintained similar to that required of Consultant pursuant to this agreement.
- E. With regard to all insurance coverage required by this agreement:
- (1) Any deductible or self-insured retention exceeding \$25,000 for Consultant or subcontractor shall be disclosed to and be subject to approval by the County Risk Manager prior to the effective date of this agreement.
 - (2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Consultant or subcontractor shall maintain such insurance coverage with an effective date earlier or equal to the effective date of this agreement and continue coverage for a period of three years after the expiration of this agreement and any extensions thereof. In lieu of maintaining post-agreement expiration coverage as specified

above, Consultant or subcontractor may satisfy this provision by purchasing tail coverage for the claims-made policy. Such tail coverage shall, at a minimum, provide the insurance coverage required hereunder for claims received and reported three years after the expiration date of this agreement.

- (3) All insurance (except workers' compensation and professional liability) shall include an endorsement or an amendment to the policy of insurance which names *County, its elected officials, officers, employees, agents, and volunteers as additional insureds*. In the event that coverage is reduced or canceled, a notice of said reduction or cancellation shall be provided to County within 24 hours. Any available insurance proceeds in excess of the specified minimum limits and coverage pursuant to the terms of this agreement shall be applicable to the Additional Insured. The additional insureds coverage shall be equal to Insurance Service Office endorsement CG 20 10 for on-going operations, and CG 20 37 for completed operations.
- (4) Each insurance policy (except for workers' compensation and professional liability policies), or an endorsement thereto, shall contain a "separation of insureds" clause which shall read:

"Separation of Insureds.

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
 - b. Separately to each suit insured against whom a claim is made or suit is brought."
- (5) Consultant shall provide the County with an endorsement or amendment to Consultant's policy of insurance as evidence of insurance protection before the effective date of this agreement.
 - (6) The insurance coverage required herein shall be in effect at all times during the term of this agreement. In the event any insurance coverage expires at any time during the term of this agreement, Consultant shall provide, at least 20 days prior to said expiration date, a new endorsement or policy amendment evidencing insurance coverage as provided for herein for not less than the remainder of the term of this agreement or for a period of not less than one year. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided and a renewal endorsement or policy amendment is not provided within 10 days of the expiration of the endorsement or policy amendment in effect at inception of this agreement, County may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

- (7) If the endorsement or amendment does not reflect the limits of liability provided by the policy of insurance, Consultant shall provide County a certificate of insurance reflecting those limits.
- (8) Any of Consultant's Excess Insurance shall contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the County.

Section 12. NOTICE OF CLAIM; APPLICABLE LAW; VENUE.

- A. If any claim for damages is filed with Consultant or if any lawsuit is instituted concerning Consultant's performance under this agreement and that in any way, directly or indirectly, contingently or otherwise, affects or might reasonably affect County, Consultant shall give prompt and timely notice thereof to County. Notice shall be prompt and timely if given within 30 days following the date of receipt of a claim or 10 days following the date of service of process of a lawsuit. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. Any dispute between the Parties, and the interpretation of this agreement, shall be governed by the laws of the State of California. Any litigation shall be venued in Shasta County.

Section 13. COMPLIANCE WITH LAWS; NON-DISCRIMINATION.

- A. Both Parties shall observe and comply with all applicable present and future federal laws, state laws, local laws, codes, rules, regulations, and/or orders that relate to the work or services to be provided pursuant to this agreement.
- B. Neither Party shall not discriminate in employment practices or in the delivery of services on the basis of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, medical condition (including cancer, HIV, and AIDS) physical or mental disability, use of family care leave under either the Family & Medical Leave Act or the California Family Rights Act, or on the basis of any other status or conduct protected by law.
- C. Both Parties represent that they are in compliance with and agrees that they shall continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. sections 12101, *et seq.*), the Fair Employment and Housing Act (Government Code sections 12900, *et seq.*), and regulations and guidelines issued pursuant thereto.
- D. No funds or compensation received by Consultant under this agreement shall be used by Consultant for sectarian worship, instruction, or proselytization. No funds or compensation received by Consultant under this agreement shall be used to provide direct, immediate, or substantial support to any religious activity.

- E. In addition to any other provisions of this agreement, Consultant shall be solely responsible for any and all damages caused, and/or penalties levied, as the result of Consultant's noncompliance with the provisions of this section.

Section 14. ACCESS TO RECORDS; RECORDS RETENTION.

County, federal, and state officials shall have access to any books, documents, papers, and records of Consultant that are directly pertinent to the subject matter of this agreement for the purpose of auditing or examining the activities of Consultant or County. Except where longer retention is required by federal or state law, Consultant shall maintain all records for five years after expiration of this contract. This provision shall survive the termination, expiration, or cancellation of this agreement.

Section 15. COMPLIANCE WITH CHILD, FAMILY, AND SPOUSAL SUPPORT REPORTING OBLIGATIONS.

Either Party's failure to comply with state and federal child, family, and spousal support reporting requirements regarding either Party's employees or failure to implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family, and spousal support obligations shall constitute a default under this agreement. Either Party's failure to cure such default within 90 days of notice by County shall be grounds for termination of this agreement.

Section 16. LICENSES AND PERMITS.

Each Party's officers, employees, and agents performing the work or services required by this agreement, shall possess and maintain all necessary licenses, permits, certificates, and credentials required by the laws of the United States, the State of California, the County of Shasta, and all other appropriate governmental agencies, including any certification and credentials required by County. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this agreement and constitutes grounds for the termination of this agreement by either Party.

Section 17. PERFORMANCE STANDARDS.

Each Party shall perform the work or services required by this agreement in accordance with the industry and/or professional standards applicable to each Party's work or services.

Section 18. CONFLICTS OF INTEREST.

Neither Party's officers nor employees shall not have a financial interest, or acquire any financial interest, direct or indirect, in any business, property, or source of income that could be financially affected by or otherwise conflict in any manner or degree with the performance of the work or services required under this agreement.

Section 19. NOTICES.

- A. Except as provided in section 6.C. of this agreement (oral notice of termination due to insufficient funding), any notices required or permitted pursuant to the terms and provisions of this agreement shall be given to the appropriate Party at the address specified below or at such other address as the Party shall specify in writing. Such notice shall be deemed given: (1) upon personal delivery; or (2) if sent by first class mail, postage prepaid, two days after the date of mailing.

If to County: Director
Shasta County Department of Housing and
Community Action Programs
1450 Court Street, Suite 108
Redding, CA 96001
Telephone: (530) 225-5160
Fax: (530) 225-5178

If to Consultant: Director
Modoc County Department of Social Services
120 N. Main Street
Alturas, CA 96101
Telephone: 530-233-6501
Email: kellycrosby@co.modoc.ca.us

- B. Any oral notice authorized by this agreement shall be given to the persons specified in Section 19.A. and shall be deemed to be effective immediately.

Section 20. AGREEMENT PREPARATION.

It is agreed and understood by the Parties that this agreement has been arrived at through negotiation and that neither Party is to be deemed the Party which created any uncertainty in this agreement within the meaning of section 1654 of the Civil Code.

Section 21. COMPLIANCE WITH POLITICAL REFORM ACT.

Both Parties shall comply with the California Political Reform Act (Government Code, sections 81000, *et seq.*), with all regulations adopted by the Fair Political Practices Commission pursuant thereto, each party will comply with that Party's respective Conflict of Interest Code, with regard to any obligation on the part of the respective Party's obligation, if any, to disclose financial interests and to recuse from influencing any County decision which may affect the Party's financial interests.

Section 22. SEVERABILITY.

If any portion of this agreement or application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal or state statute or regulation or County ordinance, the remaining provisions of

this agreement, or the application thereof, shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this agreement are severable.

Section 23. CONFIDENTIALITY.

- A. During the term of this agreement, both Parties may have access to information that is confidential or proprietary in nature. Both Parties agree to preserve the confidentiality of and to not disclose any such information to any third party without the express written consent of the other Party or as required by law. This provision shall survive the termination, expiration, or cancellation of this agreement.
- B. Each Party shall:
- i. Secure and protect the Confidential Information using the same degree or greater level of care that it uses to protect such Party's own confidential information, but no less than a reasonable degree of care;
 - ii. Use the Confidential Information of the other Party solely to perform its obligations or exercise its rights under this agreement;
 - iii. Require their respective employees, agents, attorneys, and independent contractors who have a need to access such Confidential Information to be bound by confidentiality obligations sufficient to protect the Confidential Information; and
 - iv. Not transfer, display, convey or otherwise disclose or make available all or any part of such Confidential Information to any third party. Either Party may disclose the other Party's Confidential Information to the extent required by applicable law or regulation, including without limitation of any applicable Freedom of Information or sunshine law, including the California Public Records Act, lawful subpoena, or by order of a court or other governmental entity, in which case the disclosing Party shall notify the other Party as soon as practical prior to such disclosure and an opportunity to respond or object to the disclosure.

Section 24. SCOPE AND OWNERSHIP OF WORK.

- A. All research data, reports, and every other work product of any kind or character arising from or relating to this agreement shall become the property of the County and be delivered to the County upon completion of its authorized use pursuant to this agreement. County may use such work products for any purpose whatsoever. All works produced under this agreement shall be deemed works produced by a contractor for hire, and all copyright with respect thereto shall vest in the County without payment of royalty or any other additional compensation. Notwithstanding anything to the contrary contained in this agreement, Consultant shall retain all of Consultant's rights in Consultant's own proprietary information, including, without

limitation, Consultant's methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge, and experience possessed by Consultant prior to, or acquired by Consultant during the performance of this agreement and Consultant shall not be restricted in any way with respect thereto.

- B. Notwithstanding Section 23.A. of this agreement, all data entered by Consultant into ServicePoint shall remain the property of the County. Upon termination of this agreement and request by Consultant, a copy of the data will be transferred to Consultant in a comma-delimited text file or other mutually agreed upon format.
- C. Consultant acknowledges that County does not own Wellsky Corporation, ServicePoint, or any of the Licensed Software. As such, and pursuant to County's October 31, 2019, agreement with Wellsky, all right, title, and interest in and to the Licensed Software, Sublicensed Software, Test Scripts, Documentation, Services, and Work Product at all times remain with Wellsky, subject to any license or sublicense granted under this agreement. All research data, reports, and every other County data work product of any kind or character arising from or relating to this agreement shall become the property of the County and be delivered to the County upon completion of its authorized use pursuant to this agreement. County may use such County data work products for any lawful purpose whatsoever.

Section 25. USE OF COUNTY PROPERTY.

Consultant shall not use County premises, property (including equipment, instruments, and supplies), or personnel for any purpose other than in the performance of Consultant's obligations under this agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, County and Consultant have executed this agreement on the dates set forth below. By their signatures below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

COUNTY OF SHASTA

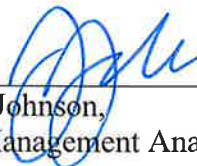
Date: _____

CHRISTY COLEMAN
DIRECTOR


Approved as to form:
RUBIN E. CRUSE, JR
County Counsel

RISK MANAGEMENT APPROVAL


By: Matthew M. McOmber
Senior Deputy County Counsel

By:  01/08/20
James Johnson,
Risk Management Analyst III

Information Technology Approval:

 1-8-2020
By: Thomas Schreiber
Chief Information Officer

CONSULTANT

Date: _____

By: _____
KELLY CROSBY
DIRECTOR

Tax I.D.#: 94-6000522