FIRST MODIFICATION OF AGREEMENT NO. 10840 (CCS)

This First Modification of Agreement Number 10840 (CCS) ("First Modification"), entered into as of _____12/23/2020____("Execution Date"), by and between the City of Santa Monica, a municipal corporation ("City"), and Pathways Community Network Inc., dba Pathways Community Network Institute and Municipal Information Systems, Inc. ("CONSULTANT") is made with reference to the following:

RECITALS

A. On or about July 12, 2019 the City and CONSULTANT entered into Agreement Number 10840 (CCS) ("Original Agreement") for CONSULTANT to provide systems administration support, data quality, custom reporting, and direct user training and support for the City's licensed users of the Homeless Management Information System ("HMIS"), which the U.S. Department of Housing and Urban Development ("HUD") requires all HUD-funded homeless programs to use when collecting data.

B. On November 24, 2020, the City Council authorized the Community Services Department to modify the Original Agreement to increase the agreement price by $280,000 for software licensing, custom programming, administration of the HMIS, and other professional services.

C. Consistent with Council's approval, City and CONSULTANT wish to modify the Original Agreement to expand the scope of the services and increase the not-to-exceed amount of the Agreement for City access to WellSky Corporation's Service Point Software products, licenses, and custom programming under the Original Agreement, rather than under an agreement between the City and WellSky Corporation, to bring HMIS services under a single agreement and permit City to more efficiently manage HMIS services.

D. City and CONSULTANT desire to enter into this Agreement upon the terms and conditions set forth below.

Now, therefore, the undersigned parties do hereby mutually agree to modify the Original new Agreement as follows:

TERMS AND CONDITIONS

1. Section 1 of the Original Agreement entitled, "Definitions" shall be deleted entirely and replaced with the following paragraphs:

    1.1   "Agency" means any agency, organization or group (including its employees, volunteers, affiliates, contractors, students, interns and associates) that has entered into an HMIS User Agreement with the City, which agreement is attached hereto as Exhibit D and incorporated herein by reference, and has been granted access to the HMIS.

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1.2   "Affiliates" means, with respect to a Party, its parent company and subsidiaries and/or controlled corporations or entities which are directly or indirectly controlled by Party.

1.3   "Authorized User" means any individual who has completed training, signed a User Agreement, has been issued a User ID and password, and access to HMIS or otherwise is authorized access to the System under the terms of this Agreement.

1.4   "City Data" means all information and data provided or inputted by or on behalf of any Client Party for use with the System.

1.5   "Client Party" means City and each of its Affiliates, Authorized Users, and Third-Party Users.

1.6   "Contract Work Product" means all City Data and all information and data generated by CONSULTANT or any Client Party using City Data in relation to the performance of this Agreement, including aggregate data generated using City Data.

1.7   "Custom Software" means specifically modified reports, dashboard panels, or other features or modules of the Software provided by CONSULTANT for City as described in the Proposal, Scope of Services or other documents attached as exhibits to this Agreement.

1.8   "Data Security Breach" means the unauthorized acquisition, access, use or disclosure of Nonpublic Information that compromises the security, confidentiality or integrity of such information. The term, "Data Security Breach" shall not include trivial incidents that occur on a daily basis, such as scans, "pings," or unsuccessful attempts to penetrate computer networks or servers used in connection with the Services.

1.9   "Documentation" means all user guides, videos, embedded help text, and other reference materials generally furnished with respect to the System, whether in printed or electronic format.

1.10   "HMIS" means Homeless Management Information System.

1.11   "HMIS Policies and Procedures" means and refers to the City's Policies and Standard Operating Procedures that set forth the terms of HMIS use for compliance with the HUD Standards.

1.12   "HMIS Uses and Disclosures" means the uses and disclosures of Protected Information that are allowed by the HUD Standards.

1.13   "HUD Standards" means and refers to the Department of Housing and Urban Development (HUD) Homeless Management Information Systems (HMIS); Data and Technical Standards Final Notice that HUD published in the July 30, 2004 Federal Register, Vol. 69, No. 146, pp. 45888 through 45934, or as amended.

1.14   "Non-public Information" means: (i) Protected Information (defined below); (ii) trade secrets; (iii) business information; and (iv) information City discloses, in writing, orally, or visually, to CONSULTANT, or to which CONSULTANT obtains access in connection with the negotiation and performance of the Agreement, and which relates to City, its employees, its third-party vendors or licensors, or any other individuals or entities that have made confidential information available to City or to CONSULTANT acting on City's behalf, marked or otherwise identified as proprietary or confidential, or that, given the nature of the information, ought reasonably to be treated as proprietary or confidential.

1.15   "Party" in the singular refers to either of the parties to this Agreement, together with their Affiliates, while "Parties" in the plural refers to both the parties to this Agreement, together with their Affiliates.

1.16   "Permissions" means the username and password provided to City by CONSULTANT or by City to Authorized Users for each Authorized User, as the same may be modified under the System.

1.17   "Proprietary Rights" means worldwide intellectual and proprietary property owned and/or properly licensed by a Party and all intellectual or proprietary property rights subsumed therein, including copyright, patent, trademark (including goodwill), trade dress, trade secret and know-how rights.

1.18   "Protected Information" means information that identifies or is capable of identifying a specific individual, including but not limited to personally-identifiable information ("PPI") and personal information as defined by California Civil Code § 1798.29 (g); Protected Health Information ("PHI") as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the HIPAA regulations (including, but not limited to 45 CFR § 160.103); medical information other than PHI; HMIS data subject to the HUD Standards; Cardholder Data (as currently defined by the Payment Card Industry Data Security Standard and Payment Application Standard Glossary of Terms, Abbreviations, and Acronyms); student records; or individual consumer or financial information that is subject to laws restricting the use and disclosure of such

information, including but not limited to Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Consumer Privacy Act of 2018 (AB No. 375, effective Jan. 1, 2020), the federal Gramm- Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g); the federal Fair and Accurate Credit Transactions Act (15 USC § 1601 et seq.) and the Fair Credit Reporting Act (15 USC § 1681 et seq.).

1.19 "Service Interruption" means that any Client Party is unable to access the System as provided herein, excluding (i) scheduled maintenance windows of which City is notified at least 24 hours in advance and which occur outside of normal business hours; (ii) scheduled repairs of not more than two hours duration in any one week period of which City is notified at least four hours in advance and which occur outside of normal business hours; (iii) critical repairs including security updates where advance notice cannot be reasonably provided and (iv) interruptions caused by transmission errors, Internet service providers, vandalism, Authorized User error or other factors beyond CONSULTANT's or its direct Service Providers' reasonable control.

1.20 "Service Provider" means a third-party service provider of City, CONSULTANT, and/or any of their Affiliates.

1.21 "Server" means and refers to the server(s) utilized by CONSULTANT for the System as defined in this Agreement. CONSULTANT shall, in accordance with the notice provisions set forth in this Agreement, keep the City's Information System Department informed of the location and nature of the Server, in writing, throughout the Term of this Agreement.

1.22 "Service Recipient" means any recipient of services offered by an Agency.

1.23 "Software" means the object code version of the software products set forth in the Scope of Services and made available to City under this Agreement by CONSULTANT.

1.24 "Software Work Product" means software, programming, tools, documentation, and materials that are used, created, developed, or delivered by CONSULTANT to City in connection with Custom Software, and all Proprietary Rights subsumed therein.

1.25 "Scope of Services" means any statement of work entered into and mutually approved in writing by the parties pursuant to this Agreement,

including in particular but not limited to the Scope of Services, the Proposal, and any other documents attached as exhibits to this Agreement.

1.26 "System" means and refers to the fully integrated web-based system, including the software, modules, and subscription service provided to City as specified in the Scope of Services, including any and all Upgrades and Updates. The System shall be accessible by any Client Party via a designated web site or IP address to be provided to City by CONSULTANT.

1.27 "Third-Party Technology" means proprietary technology of third parties that CONSULTANT provides, or enables access to, as part of the System.

1.28 "Third-Party User" means any customer, consultant or Service Provider of any Client Party that is using or accessing the System on behalf of the Client Party.

1.29 "Updates" and "Upgrades" means maintenance revisions, improvements, modifications, bug fixes, patches, corrections and enhancements to System provided or made available by CONSULTANT generally to its customers. The term "Updates" shall not include custom reports or enhancements for which CONSULTANT charges a separate or additional fee.

2. Section 3 of the Original Agreement entitled "CONSULTANT Services" shall be deleted entirely and replaced with the following paragraphs:

3. CONSULTANT Services. CONSULTANT will perform all of the services described in Exhibit A, Scope of Services, for the initial term. CONSULTANT will perform all of the services described in Exhibit A-1, Scope of Services, for the remaining terms of this Agreement. The services described in Exhibits A and A-1 are referred to collectively as "Services". CONSULTANT will complete the Services in accordance with Exhibits B and B-1, Budgets.

3.1 Software License Grant. CONSULTANT hereby grants to City a non-exclusive and nontransferable sublicense to use the System including all of the Software Licenses set forth in the Scope of Services. CONSULTANT represents and warrants that it possesses a perpetual, non-exclusive, non-transferrable license to use the System and has the right to sublicense the System under the Master License and Services Agreement between CONSULTANT and WellSky Corporation, including the Software Licenses set forth in the Statement of Services.

3.2. Software as a Service. CONSULTANT agrees to provide or make available a fully integrated web-based System via a subscription service as described in

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the Scope of Services and to grant any Client Party a non-exclusive right to access the System, including all Updates and Upgrades, via the Internet. Any Client Party may use the System solely for internal business of City in accordance with this Agreement, including the Scope of Services and Documentation.

3.3. System Maintenance and Support. CONSULTANT will maintain and support the System as set forth in the Scope of Services.

3.4. CONSULTANT Hosted System Model. CONSULTANT represents that pursuant to the Master License and Services Agreement between CONSULTANT and WellSky Corporation, the System and City Data will be hosted in a secure Internet accessible environment as described in the Scope of Services.

3.5. Users. City may license the System to the number of Authorized Users as set forth in the Scope of Services. Each Authorized User shall access and use the System (i) in accordance with the terms of this Agreement, including the Scope of Services, and Documentation, and, (ii) when applicable, through a unique and reasonably secure username and password as further described in the Documentation. The System allows City to grant different levels of access to Client Data, to different Authorized Users. It is City's responsibility to designate the applicable access to be granted to each Authorized User. City shall cause all Authorized Users to comply with all obligations of City hereunder, to the extent applicable to Authorized Users. Except for City's and its Affiliates' system administrators and where reasonably necessary for administrative or security purposes, no Authorized User may use the username/user identification or password of any other Authorized User.

3.6. Third Party Access. City shall also have the right for City and its Affiliates to permit Third Party Users to access or use the System in accordance with the terms and conditions of this Agreement, including the Scope of Services, provided that Third Party User has agreed in writing in advance to be bound by at least the same restrictions with respect to the System as City. City shall be responsible for ensuring the compliance of each Client Party with the terms and conditions of this Agreement and the applicable Scope of Services.

3.7. Security. CONSULTANT shall provide City with the ability to create, modify and assign Permissions required for each Authorized User to access the System. City shall be responsible for safeguarding the Permissions and otherwise complying with the password and security procedures that CONSULTANT may establish from time to time. City shall promptly notify CONSULTANT if City becomes aware that the security of its Permissions has been compromised.

3.8. Professional Services. During the term of this Agreement, CONSULTANT will make available to City Professional Services as set forth in the Scope of Services. City may also contract for expanded services for

additional days and hours in accordance with CONSULTANT's current policies and prices. Notwithstanding the foregoing, CONSULTANT will not be obligated to provide any support required as a result of, or with respect to, City's operating systems, networks, hardware, or other related equipment of any Client Party use of the Services other than in accordance with the applicable Scope of Services and Documentation and as permitted under this Agreement.

3.9. Service Level. CONSULTANT shall provide the service levels set forth in the Scope of Services, including the 99.5% uptime requirement, and including response no less quickly than in accordance with the following priority levels:

(a) A Level "A" Priority shall mean and refer to a System error that renders the System inoperable. CONSULTANT shall assign resources within the first hour and shall continue to work on the problem until the problem is resolved. Average resolution time shall be less than eight (8) hours.

(b) A Level "B" Priority shall mean and refer to the detection of a System error that seriously impairs System operations but does not render the System inoperable. CONSULTANT shall assign resources within four (4) hours and continue to work on the problem until the problem is resolved.

(c) A Level "C" Priority shall mean and refer to a minor problem, but of sufficient severity to warrant correction before the next scheduled Upgrade or Update. CONSULTANT shall assign resources sufficient to resolve the problem within no more than thirty (30) days.

(d) A Level "D" Priority shall mean and refer to any other minor problems that do not severely affect the operation of the System. CONSULTANT shall incorporate corrections into the next scheduled Upgrade or Update.

3.10. Backup. CONSULTANT shall maintain a backup of all City Data as set forth in the Scope of Services and shall, on written request from City, provide a copy of the backup to City.

3.11. Copyright and Other Restrictions.

3.11.1 CONSULTANT Rights. CONSULTANT represents and warrants that it has a perpetual, non-exclusive license to use and sublicense the Software, Custom Software, Software Work Product and System, including all software programs contained therein. The System may contain intellectual property belonging to third parties. All such intellectual property is and shall remain the property of its respective owners. Except for the limited rights expressly granted herein, all right, title and interest in and to the Software, Custom Software, Software Work Product, and System are reserved to its respective owners, and, except as expressly granted herein, nothing contained in this Agreement shall be construed as conferring any right, title, interest or license with respect to the Software, Custom Software, Software Work Product or System upon any Client Party, by implication, estoppel or otherwise. In addition, City agrees and

acknowledges that CONSULTANT shall have an unlimited right to incorporate any updates, upgrades, or modifications to the Software, Custom Software and the System rendered through use thereof all suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by any Client Party relating to the System. Nothing in this Section shall affect the ownership by City of any and all Contract Work Product or other City proprietary information.

3.11.2 **Contract Work Product**. City shall own all right, title and interest in and to the Contract Work Product, which shall never be deemed to be Software, Custom Software, System, or Software Work Product, even if delivered or incorporated therewith. CONSULTANT shall not be responsible or liable, in any way, for the deletion, destruction, damage or loss of any Contract Work Product through no fault of CONSULTANT without limiting CONSULTANT's liability to maintain backup data as set forth in the Scope of Services or CONSULTANT's obligations to maintain data security or in the event of a Data Security Breach as set forth in this Agreement.

3.12.3 **Software Work Product**. City expressly acknowledges and agrees that the Software Work Product shall not constitute work made-for-hire under the United States Copyright Act, and that COSULTANT shall have the right to protect the Software Work Product by patent, copyright, or any other means. Software Work Product shall be made available to City as part of the System to the extent set forth in the Scope of Services, and City shall have no other right to use any Software Work Product.

3.13 System Warranty. CONSULTANT warrants that the System will perform in all material respects in accordance with the Scope of Services and any related Documentation when used in accordance with the terms of this Agreement on the hardware and with the third-party software specified by CONSULTANT from time to time. In the event of any breach by CONSULTANT of the warranty provided in this Section, CONSULTANT shall be required to repair or replace the nonconforming System, at CONSULTANT's sole expense, as described herein. CONSULTANT shall deliver to City a replacement System, a work-around and/or an error/bug fix as may be necessary to correct the nonconformity. If CONSULTANT is unable to repair or replace the nonconforming System through the remedy set forth above, then such remedy shall not be an exclusive remedy and City shall have all remedies available in law or equity.

3.14 Confidentiality. The parties acknowledge and agree that for the implementation and operation of the System, each Party (the "Receiving Party") may have access to certain Non-public Information, including Protected Information, that is exempt from disclosure to the public or other unauthorized persons under state and federal statutes. Each Party warrants and agrees as follows: (i) all

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such Non-public Information shall be kept confidential and protected from disclosure to any persons other than employees, agents, officers or representatives of such Party who have a need to know; and (ii) all such Non-Public Information shall be held in the strictest of confidence and shall not be disclosed, disseminated or revealed to any other third party without the prior written permission of the Director of the City's Community Services Department and the City Attorney. Each Party shall ensure that its employees, officers, agents and representatives who are involved with this Agreement will be advised of the terms of this confidentiality clause and will be instructed that they are bound by this confidentiality clause. The following information shall not be considered Non-Public Information subject to this Section: (i) information that is publicly available or later becomes available other than through a breach of this Agreement or a Data Breach; (ii) information that is known to the Receiving Party or its employees, agents or representatives prior to its disclosure by the Disclosing Party or is independently developed by the Receiving Party or its employees, agents or representatives subsequent to such disclosure; or (iii) information that is subsequently lawfully obtained by the Receiving Party or its employees, agents or representatives from a third party without obligations of confidentiality.

3. Section 4 of the Original Agreement entitled "City Services" shall be deleted in its entirety and shall be replaced with the following paragraphs:

    4. **City Services.** The City agrees to:

    4.1 Make available to CONSULTANT any currently existing documents, data or information required for the performance of the Services.

    4.2 Designate a representative authorized to act on behalf of City.

    4.3 Promptly examine and render findings on all documents submitted for staff review by CONSULTANT.

    4.4 Maintain a HUD compliant privacy policy and ensure that HUD compliant privacy notices are posted at each service location were the System is used.

    4.5 Use due diligence and care in authorizing City employees and other organizations' employees, independent contractors, and volunteers to access and use the System. For purposes of this paragraph, "due diligence" means that the City shall ensure that persons will only be authorized to access and use the System after they have completed (to CONSULTANT's reasonable satisfaction) introductory and ongoing confidentiality and ethics training provided by CONSULTANT, have been deemed Authorized Users as provided in this Agreement, and conform to CONSULTANT requirements that prohibit the sharing of password or access codes. The City will not permit any person, who does not satisfy the foregoing requirements, to have access to the System.

4. Section 5 of the Original Agreement entitled, "Compensation" shall be deleted in its entirety and replaced with the following paragraph:

> **5. Compensation.** CONSULTANT shall be compensated for Services performed pursuant to this Agreement in an amount not to exceed Eighty-Five Thousand Dollars ($85,000) for the initial term, in accordance with Exhibit B, Budget. The total amount of compensation to be paid to CONSULTANT under this Agreement shall not exceed Seven Hundred and Five Thousand dollars ($705,000) as set forth in Exhibit B-1, Budget.

5. Section 11 entitled, "Defense and Indemnification" shall be modified by adding the following subparagraph:

> **11.3 Infringement Claims.** CONSULTANT agrees to indemnify, defend, settle, or pay any third-party claim or action against any Client Party for infringement of any U.S. patent or copyright arising from City's use in accordance with this Agreement of the System. If the System or any part of the System is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, CONSULTANT shall, at its own expense, either: (i) procure for City the right to continue to use the System; or (ii) modify the System to make it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the System; or (iii) replace the System with a functionally equivalent non-infringing program at no additional charge to City; or (iv) if none of the foregoing alternatives is reasonably available to CONSULTANT, terminate this Agreement and refund to City any prepaid but unearned fees paid to CONSULTANT.

6. Section 21 entitled, "Work Product; Reports" shall be modified by replacing the phrase "work product" with the phrase "Contract Work Product".

7. Section 27 entitled, "Data Retention" shall be modified by replacing the phrase "City Data" as it appears throughout this section and replaced with the phrase "Contract Work Product."

8. Section 33 entitled, "Exhibits" shall be deleted in its entirety and replaced with the following paragraph:

> **33. Exhibits**. The following exhibits are incorporated by reference into this Agreement as though fully set forth herein.
>
> Exhibits A -A1 Scope of Services
> Exhibits B- B1 Budget

Exhibit C   Insurance Requirements

Exhibit D   HMIS User Agreements

9. Section 34 entitled, "No Third-Party Beneficiaries" shall be added to the Original Agreement and shall read as follows:

> **34. No Third-Party Beneficiaries**. This Agreement does not and is not intended to confer any rights or remedies upon any party other than the Parties to this Agreement.

10. Section 35 entitled, "Severability" shall be added to the Original Agreement and shall read as follows:

> **35. Severability**. In the event that any provision of this Agreement shall be determined to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

11. Section 36 entitled, "Force Majeure" shall be added to the Original Agreement and shall read as follows:

> **36. Force Majeure.** In the event of delays to the performance of obligations (other than payment obligations) due to circumstances beyond each party's reasonable control, including without limitation, acts of God, fires, floods, earthquakes, wars, civil disturbances, terrorism, pandemic, or sabotage (a "Force Majeure Event"), each Party will have no liability for any such failure or delay to the extent that it promptly uses commercially reasonable efforts to minimize any resulting delay in or interference with the performance of its obligations hereunder.

12. Except as expressly modified by this First Modification, all other terms and conditions of the Original Agreement shall be and remain in full force and effect.
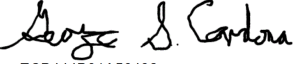
IN WITNESS WHEREOF, the parties have executed this First Modification as of the date and year first written above.

CITY OF SANTA MONICA,
a municipal corporation

ATTEST:

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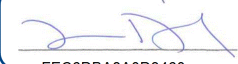
Denise Anderson-Warren

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Denise Anderson-Warren
City Clerk
12/24/2020

APPROVED AS TO FORM:

DocuSigned by:

George S. Cardona

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George Cardona
Interim City Attorney
12/23/2020

DocuSigned by:

By: _____
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Lane Dilg
Interim City Manager
12/23/2020

Pathways Community Network Inc dba Pathways MISI

DocuSigned by:

William Matson

By: _____
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William Matson
Executive Director
12/23/2020

Exhibit A-1

Scope of Services

Pathways MISI will provide the City with ServicePoint system access, and management of the ServicePoint implementation in accordance with the Scope of Work detailed in Section A of the City of Santa Monica's Request for Proposals – Homeless Management Information System Consultant (214), Pathways MISI's response to the RFP, the CoC Program Interim Rule, any other HMIS rules and guidance prescribed by HUD, and any additional requirements mandated by the City and the Continuum of Care. Activities will include:

HMIS System Access

Pathways MISI will provide persons authorized by the City with access to a dedicated ServicePoint implementation. Up to 265 persons may have user accounts at any one time between January and June 2021, and up to 170 beginning July 1, 2021. Pathways MISI may authorize additional persons to have a user accounts based on the current fee schedule under the effective Master License and Services Agreement executed in January 2021 between Pathways MISI and WellSky Corporation.

The following ServicePoint modules will be available to these users under the basic terms of this agreement: ClientPoint, SkanPoint, ShelterPoint/Unit Manager, ResourcePoint, Reports, Advanced Reporting Tool/Qlik. The following modules will be available at additional cost: Resource Directory/CommunityPoint, Eligibility Screener, Fund Manager, Billing Manager, SkynkPoint.

The ServicePoint system will be hosted in a secure internet accessible environment provided by Wellsky, a data center with enterprise grade firewalls and secure access protection. WellSky adheres to the following backup process: daily incremental backups and weekly full backups. Wellsky will test backup information as needed, but no less than quarterly, to verify media reliability and information integrity.

Pathways MISI will maintain and administer the ServicePoint implementation, creating and inactivating user accounts at the City's request, configuring agency and program records, conducting data quality and user activity audits, and developing reports.

HMIS Data Integration

Pathways MISI will facilitate data integration project planning meetings with the Continuum of Care Lead Agency (LAHSA - the Los Angeles Homeless Services Authority) and other stakeholders and will keep the City apprised of the project's progress and challenges. Pathways MISI will also ensure that integration files are provided to LAHSA on the schedule agreed upon by the City and the Continuum of Care.

To ensure data migrated to the Clarity system is accurate and complete, Pathways MISI will work with the City and HMIS users to define a data verification process to precede the creation of data migration files. Representatives from Pathways MISI will also work with LAHSA representatives to define a methodology for providing feedback on migration submissions. Feedback provided by LAHSA following each migration file submission will be shared with the City, and with HMIS users as appropriate.

Pathways MISI will provide the City with up to 110 hours of data integration assistance per year. Additional consulting hours will be available at rates listed in the contract budget.

System Administration

Pathways MISI will provide the City of Santa Monica with responsive, multi-modal HMIS support, training and technical assistance for 265 concurrent users, and will provide the City with HMIS reports development services on request.

Support: Santa Monica HMIS users will interact with the Pathways MISI support team by phone, email, and via online help portal or social media. Support will be provided during regular weekday business hours (9am to 5pm Pacific Time), except for federal holidays.

Data quality: Pathways MISI will produce for each HMIS participating agency periodic reports detailing additions and changes that need to be made to specific HMIS records to ensure acceptable data quality. A designated City staff member will receive copies of each report. Reports will be provided on a monthly basis until data quality reaches acceptable levels, and on a quarterly basis once acceptable data quality levels have been achieved.

Training: Pathways MISI will provide the City with a multi-modal HMIS training curriculum, including classroom training, online instruction, video-based tutorials and user guides/tip sheets. Pathways MISI will provide Santa Monica's HMIS users with on demand online training via the Bridge by Instructure Learning Management System (LMS), enabling people to be quickly certified to use the HMIS, without having to wait for the next scheduled ServicePoint class.

Pathways MISI will create and maintain a unique web page for Santa Monica HMIS users, where they can read local HMIS related announcements, download documents such as policies and procedures, register for training and access tutorials, guides and tip sheets.

Technical Assistance: When HMIS users still have questions after using the support and training resources above, Pathways MISI will provide them with one on one technical assistance, either on line (often incorporating computer screen sharing) or in person if Pathways MISI staff is conducting site visits in the City.

Pathways MISI will conduct site visits three times per year. During these visits, Pathways MISI staff will confer with City staff and will visit HMIS participating agencies as needed to provide face to face technical assistance, and to observe data collection processes and workflows for the purpose of continually improving HMIS support and training. All site visits must be approved in advance by City staff, and City staff will be invited to participate in all agency site visits.

Reports Development: Pathways MISI staff will assist the City with development of custom HMIS reports. Pathways MISI will provide the City with up to 26 hours of reports development services per year. Additional hours will be available at rates listed in the contract budget.

Data Needs and Technology Assessment

Pathways MISI will assist the City with data and technology insight and information when requested, up to 12 hours per year. Additional consulting hours will be available at rates listed in the contract budget.

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Exhibit B-1

Budget

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All recurring fees may be increased by Pathways MISI once annually commencing on July 2021 at a rate not to exceed five percent (5%). The preceding limitation shall not apply to any increase in fees attributable to City's acquisition of additional licensed software or services. The amount paid to Pathways MISI under the Original Agreement and First Modification shall not exceed $705,000 over a five-year period, with future funding contingent upon City Council budget approval.

System Access

	Jan 2021 - Jun 2021	Jul 2021 - Jun 2022	Jul 2022 - Jun 2023	Jul 2023 - Jun 2024
Community Services – per user fee (reports access included)	39,973.00	50,695.00	53,230.00	55,892.00
Community Services – AIRS Taxonomy Subscription	225.00	473.00	496.00	521.00
Community Services – SSL Certificate	210.00	441.00	463.00	486.00
Community Services – Export Payload – HUD CSV	1,250.00	2,625.00	2,756.00	2,894.00
Community Services Module – Contact Center	2,625.00	5,513.00	5,788.00	6,077.00
Annual Estimated Totals, Software Licensing	**44,283.00**	**59,747.00**	**62,733.00**	**65,870.00**

Services

Because as of June 30, 2021 the number of WellSky Community Services end users will be reduced to 170 from the 265 specified in the City's original contract with Pathways MISI, we will, as of the same date, reduce the system administration fee charged to the City by an identical proportion.

	Jan 2021 - Jun 2021	Jul 2021 - Jun 2022	Jul 2022 - Jun 2023	Jul 2023 - Jun 2024
HMIS Data Integration Services (up to 100 hours per year)	3,796.10	7,592.20	7,592.20	7,592.20
System Administration (265 users first 6 mos, then 170 and up to 26 hours of reports development)	27,717.69	43,328.80	43,328.80	43,328.80
Data Needs/Technology Assessment (up to 12 hours per year)	414.42	828.84	828.84	828.84
Travel and lodging (estimated 3 site visits per year)	3,000.00	6,000.00	6,000.00	6,000.00
Contingency (10%)	3,492.82	5,774.98	5,774.98	5,774.98
Annual Totals, Services	**38,421.03**	**63,524.82**	**63,524.82**	**63,524.82**
Annual Estimated Totals, Software and Services	**82,704.03**	**123,270.82**	**126,257.82**	**129,394.82**

Additional System Access

	Jan 2021 - Jun 2021	Jul 2021 - Jun 2022	Jul 2022 - Jun 2023	Jul 2023 - Jun 2024
Community Services Module – Resource Directory	2,625.00	5,513.00	5,788.00	6,077.00
Community Services Module – Eligibility Screener	2,625.00	5,513.00	5,788.00	6,077.00
Community Services Module – Fund Manager	2,625.00	5,513.00	5,788.00	6,077.00
Community Services Module – Billing Manager	2,625.00	5,513.00	5,788.00	6,077.00
Community Services Module – SynkPoint *	2,625.00	5,513.00	5,788.00	6,077.00

 * If SynkPoint data integration module is implemented, Pathways MISI systems vendor WellSky will assess data transfer fees, which will range from $2,000 per year to

<div align="center">

Pathways MISI

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1 W Court Square, Ste 750	111 West Port Plaza, Ste 600	5 W Mendenhall St, Ste 202
Decatur, GA 30030	St Louis, MO 63146	Bozeman, MT 59715

Exhibit B-1

Budget

$20,000 per year depending on data transfer frequency. The
City will reimburse Pathways MISI for these charges.

Additional Services

Custom Reports Development	$49.03 per hour
Data and Technology Insight and Information	$69.02 per hour
Data Integration	$69.02 per hour
Training Development and Delivery	$65.84 per hour

Sub-Consultants:

Symmetric Solutions:

Learning Management System Services	$110.00 per hour
Integration Services	$120.00 per hour
Upwork:	N/A
WellSky:	$120.00 per hour

Pathways MISI

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Exhibit C - Insurance Requirements and Verifications

Consultant shall procure and maintain for the duration of the Agreement insurance against claims that may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or subcontractors.

Minimum Scope and Limits of Insurance
Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury, with limits of no less than $1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (Insurance Services Office Form CG 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form CA 00 01 covering Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than $1,000,000 per accident for bodily injury and property damage.

3. **Workers' Compensation:** Workers' Compensation insurance as required by the State of California, with Statutory Limits and Employers' Liability Insurance with limits of no less than $1,000,000 per accident for bodily injury or disease (see footnote #1).

4. **Technology Professional Errors and Omissions/Cyber Liability:** Insurance with a limit of not less than $1,000,000 per occurrence or claim/$2,000,000 in the annual aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, invasion of privacy violations, information theft, release of private information, alteration of electronic information, extortion, and network security. The policy shall also provide coverage for breach response costs, regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations. Further, the policy shall include, or be endorsed to include property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data or information "property" of the City of Santa Monica in the care, custody, and control of the Consultant.

If the Consultant maintains broader coverage or higher limits than the minimums shown above, the City of Santa Monica requires and shall be entitled to any broader coverage and higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Santa Monica.

Other Insurance Provisions

1. The insurance policies are to contain, or be endorsed to contain, the following provisions:

   a. **Additional Insured Status:** The City of Santa Monica, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Consultant including materials, parts, or equipment furnished in connection with such work or operations. CGL coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85, or if not available, through the addition of a combination of (1) CG 20 10, CG 20 26, CG 20 33, or CG 20 38 **and (2)** CG 20 37).

   b. **Primary Coverage:** For any claims related to this Agreement, the Consultant's insurance shall be primary coverage at least as broad as Insurance Services Offices Form CG 20 01 04 13 as respects the City of Santa Monica, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City of Santa Monica, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.

   c. **Notice of Cancellation:** Each insurance policy required herein shall state that coverage shall not be cancelled except after notice has been given to the City of Santa Monica.

   d. **Waiver of Subrogation:** Consultant hereby grants to the City of Santa Monica a waiver of any right of subrogation which any insurer of said Consultant may acquire against the City of Santa Monica by virtue of payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Santa Monica has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions
Self-insured retentions must be declared to and approved by the City of Santa Monica. The City of Santa Monica may require the Consultant to purchase coverage with a lower deductible or retention or provide satisfactory proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Santa Monica.

Acceptability of Insurers
Insurance is to be placed with insurers authorized to conduct business in California with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City of Santa Monica.

Claims Made Policies

1. If the Professional Liability policy provides "claims made" coverage:

    a. The Retroactive Date must be shown and must be before the date of this Agreement or the start of work.

    b. The insurance must be maintained, and evidence of insurance must be provided for at least 5 years after completion of work.

    c. If the policy is cancelled or not renewed, and not replaced with another "claims made" policy form with a Retroactive Date prior to the effective Agreement date, the Consultant must purchase "extended reporting" coverage for a minimum of 5 years after completion of work.

Verification of Coverage

Consultant shall furnish the City of Santa Monica with original certificates and amendatory endorsements (or copies of the applicable policy language effecting coverage provided by this clause). All certificates and endorsements are to be received and approved by the City of Santa Monica before work commences. However, failure to obtain required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City of Santa Monica reserves the right to require complete, certified copies of all required insurance policies, including the endorsements required herein, at any time.

Failure to Maintain Insurance Coverage

If Consultant, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. The City of Santa Monica, at its sole option, may terminate this Agreement and obtain damages from the Consultant resulting from said breach. Alternatively, the City of Santa Monica may purchase such coverage (but has no special obligation to do so), and without further notice to the Consultant, the City may deduct from sums due to the Consultant any premium costs advanced by the City for such insurance.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein. All exceptions must be approved in writing by the Risk Manager.

Footnotes

1: Workers' Compensation insurance coverage is not required if the Consultant does not have employees. The Consultant must, however, execute the City's Workers' Compensation Coverage Exemption Declaration Form.