Monterey County
Board of Supervisors

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066
www.co.monterey.ca.us

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Chris Lopez to:

Agreement No.: A-15099

a. Approve and authorize the Director of the Department of Social Services to sign an agreement with Chmura Economics & Analytics for a subscription license to utilize workforce and economic management tools in the amount of $19,031 for the period February 1, 2021 to January 31, 2022 with nonstandard indemnification terms and provisions; and

b. Approve and authorize the Director of the Department of Social Services to sign up to three (3) amendments to this agreement as long as they do not exceed 10% ($1,903) of the total amount or significantly change the scope of work.

PASSED AND ADOPTED on this 26th day of January 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams
NOES: None
ABSENT: None
(Government Code 54953)

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting January 26, 2021.

Dated: January 27, 2021
File ID: A 21-023
Agenda Item No.: 38

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

_____
Julian Lorenzana, Deputy

JobsEQ®
SUBSCRIPTION AGREEMENT

This Subscription Agreement (this "Agreement") is effective as of February, 1, 2021 (the "Effective Date"), through January 31, 2022, and is made by and between Chmura Economics & Analytics, LLC, a Virginia limited liability company located at 1309 East Cary Street, Richmond, VA 23219 ("Chmura"), and Monterey County Department of Social Services, located at 1000 S Main St, Salinas, CA 93901 ("Client").

Recitals:

Whereas, Client desires to obtain a subscription license to the Chmura JobsEQ® Platform, to utilize Chmura's proprietary JobsEQ® workforce and economic management tools and the proprietary data therein; and

Whereas, Chmura is willing to grant Client a subscription license on the terms and conditions set forth herein;

Now, Therefore, in consideration of the mutual promises and covenants set forth herein, the receipt and sufficiency of which is hereby acknowledged, Chmura and Client hereby agree as follows:

1. Definitions.

(a) "Affiliate" of an entity means any entity which, directly or indirectly, controls, is controlled by or is under common control with such entity, where control means the ability to direct the affairs of an entity through ownership of voting interest, contract rights or otherwise.

(b) "Chmura Intellectual Property" means: (i) the Chmura Software; (ii) the Chmura JobsEQ® Platform; (iii) Data; (iv) the Documentation; (v) all Derivative Works of the foregoing; and (vi) and all patents, copyrights, trade secret rights and other intellectual property rights with respect to the foregoing (i) – (v).

(c) "Chmura JobsEQ® Platform" means Chmura's proprietary, online JobsEQ® platform, located at www.JobsEQ.com.

(d) "Chmura Software" means Chmura's proprietary JobsEQ® workforce and economic management software, modeling tools, Documentation, and all Data included therein.

(e) "Claim" shall have the meaning set forth in Section 7(a) below.

(f) "Client Indemnitees" shall have the meaning set forth in Section 7(a) below.

(g) "Client User Information" means all data in any format relating to End Users or Client employees or agents.

(h) "Confidential Information" shall have the meaning set forth in Section 9(a) below.

(i) "Data" means the datasets available through the Chmura JobsEQ® Platform.

(j) "Derivative Work", as well as "display", "perform" and "copies," are as defined in the U.S. Copyright Act, Title 17 of the U.S. Code, as amended.

(k)   "Disclosing Party" shall have the meaning set forth in Section 9(a) below.

(l)   "Documentation" means any documentation, materials, or other instructions provided to Client as a licensed user of the JobsEQ® Platform, including without limitation the content of the "Help" feature of the JobsEQ® Platform.

(m)   "End Users" means those individuals permitted to access the JobsEQ® Portal as set forth on Schedule 1.

(n)   "In Bulk" means downloading all or parts of the Data in a systematic or regular manner so as to create a collection of materials comprising all or part of the Data whether or not such collection is in electronic or print form.

(o)   "License Fees" shall have the meaning set forth on Schedule 1.

(p)   "Losses" shall have the meaning set forth in Section 7(a) below.

(q)   "Products" shall mean, collectively, the Chmura JobsEQ® Platform and the Chmura Software.

(r)   "Receiving Party" shall have the meaning set forth in Section 9(a) below.

(s)   "Term" shall mean the subscription term of this Agreement as set forth on Schedule 1.

2.   License Grant and Restrictions on Use.

(a)   License. Chmura grants to Client, only for use by Client's authorized End Users as set forth on Schedule 1, a non-exclusive, non-transferable (except as set forth herein), non-sublicensable, worldwide, license to access the Chmura JobsEQ® Platform and to use the Chmura Software solely for Client's business purposes and in accordance with the permitted uses set forth in Section 2(b). Client may not disclose Data to third parties who are consultants or businesses that compete with Chmura in consulting or in providing labor market data or compete with Chmura in any manner. Client agrees that it shall include an acknowledgement of Chmura's JobsEQ as the source for any Data extracted from the Chmura JobsEQ® Platform in any printed materials containing such Data.

(b)   Permitted Uses. Subject to the provisions herein, End Users may use the Data in the ordinary course of Client's business purposes for:

(i)   Client's internal research purposes;

(ii)   Providing information regarding a limited number of particular industries, occupations, programs, or regions to Client's stakeholders, clients, or prospective clients;

(iii)   Marketing Client's organization or region;

(iv)   Creating periodic general research reports for in-house use or for stakeholders', clients', or prospective clients' use.

(v)   Subject to the provisions herein, Client may print Data or copy Data into other programs, so long as the amount of Data being printed or copied is reasonably tailored for Client's purposes, insubstantial, and used in compliance with these use and copying provisions.

(c)   Restrictions on Use. Client agrees that:

(i)   Client shall not rent, sell, assign, lease, or sublicense the Chmura JobsEQ® Platform or any Data, nor use the Chmura JobsEQ® Platform in a service bureau, outsourcing or other arrangement to process or analyze data on behalf of any third party, except as expressly set forth in the Permitted Uses above.

(ii)   Client shall not download or attempt to download Data In Bulk.

(iii)   Client shall not access the Chmura JobsEQ® Platform using any tools to automate such access (by way of example but not limitation, such as using a browser plugin to automate Client's web browser).

(iv)   Client shall not knowingly access, store, or transmit via the Chmura JobsEQ® Platform any material that:

(A)   is unlawful, harmful, or infringing;

(B)   facilitates illegal activity; or

(C)   causes damage or injury to any person or property.

(v)   Client shall not violate or attempt to violate the security of Chmura's networks, including (A) accessing Data not intended for Client; (B) accessing a server or account which Client is not authorized to access; (C) attempting to scan or test the vulnerability of a system or network or to breach security or authentication measures; or (D) attempting to interfere with the availability or functionality of the Chmura JobsEQ® Platform, including by means of submitting a virus, overloading, flooding, spamming, mail bombing or crashing;

(vi)   Notwithstanding any other provision herein or on any Schedule, Client shall not share the Data with any competitors or consultants competing directly with Chmura.

(vii)   Client shall not decompile, disassemble, reverse engineer or otherwise attempt to derive source code from the Chmura Software or the Chmura JobsEQ® Platform, in whole or in part, nor will Client use any mechanical, electronic, or other method to decompile, disassemble, or identify the source code of the Chmura Software or encourage others to do so;

(viii)   Client shall not use or distribute any Data to directly or indirectly create or contribute to the development of any database or product;

(ix)   Client shall not make any portion of the Data publicly available, except as expressly set forth in the Permitted Uses above;

(x)   Client shall not store, copy, or export any portion of the Data into any database or other software, except as expressly set forth in the Permitted Uses above;

(xi)   Client shall not upload, post, or otherwise publish any portion of the Data on, or provide access to any portion of the Data through the internet, any other electronic network, and data library, any listing service, or any other data sharing arrangement, except as expressly set forth in the Permitted Uses above;

(xii)   Client shall comply with Chmura's policies and procedures in effect during the Term regarding use of the Chmura JobsEQ® Platform.

(xiii)   Client shall cause each of Client's authorized End Users to comply with the obligations set forth in this Section.

3.   Training Services; Uptime.

(a)   <u>Training</u>. Weekly training sessions are included in the License Fees – typically one or two webinars per week are available. Webinar users will be undisclosed to other attendees to protect their privacy. In addition to the weekly training session, the JobsEQ® live chat feature provides technical assistance during most business hours. JobsEQ® also includes video tutorials and written documentation in the online Help section. Client may request additional training sessions for the authorized End Users at Chmura's hourly rate as set forth on Schedule 1.

(b)   <u>Chmura JobsEQ® Platform</u>. The Chmura JobsEQ® Platform will go offline from time to time for maintenance. Chmura will use best efforts to provide notice (e-mail acceptable) of maintenance periods at least 24 hours in advance and to perform maintenance on weekends or after 5 p.m. CST on weekdays; provided, however, that in emergency situations such advance notice may not be possible.

(c)   <u>Internet Access</u>. Except for maintenance as provided in subsection (b) above, and subject to the limitations below, the Chmura JobsEQ® Platform shall be available 24 hours per day/7 days per week.

(d)   Client understands and agrees that occasional temporary interruptions of Internet service may occur due to acts of God, interruption in service by co-locator or other reasons beyond the reasonable control of Chmura which may interrupt or degrade the content of or delivery of information available from Chmura JobsEQ® Platform from time to time. IN THE EVENT AN INTERRUPTION OF CHMURA'S ABILITY TO PROVIDE ACCESS TO THE CHMURA JOBSEQ® PLATFORM LASTS MORE THAN FIVE (5) BUSINESS DAYS, CLIENT SHALL HAVE THE OPTION TO TERMINATE THIS AGREEMENT AND RECEIVE A PRO-RATA REFUND OF THE ANNUAL FEES PAID BY CLIENT FOR THE TERMINATED PORTION OF THE TERM.

4.   Ownership. Client acknowledges and agrees that the Chmura Intellectual Property is owned exclusively by Chmura (including, without limitation, the look and feel, designs, algorithms, databases structures, methodologies, and know-how associated with the Chmura Intellectual Property and all updates, upgrades, improvements, customizations and enhancements to the JobsEQ® Platform) and Client has no ownership rights in any Chmura Intellectual Property except the limited license granted in Section 2 above.

5.   Financial Matters and Fees.

(a)   <u>Fees</u>. Client agrees to pay the annual License Fees set forth on Schedule 1. Following the initial one-year Term, Chmura may thereafter, upon notice to Client, amend the fee schedule annually, provided however that the License Fees shall not increase in any one year by more than the greater of (i) the percentage increase in the Consumer Price Index (Chained CPI for All Urban Consumers (C-CPI-U)) during the previous calendar year over the calendar year preceding that one or (ii) three percent (3%). Chmura shall provide notice to Client no less than sixty (60) days prior to the end of the then-current subscription Term of any written amendment to the fee schedule for the upcoming renewal Term agreed upon by both parties in writing.

(b)   <u>Taxes</u>. Client shall pay or reimburse Chmura for all sales and use taxes levied or imposed by reason of the performance by Chmura under this Agreement; excluding, however, income taxes on Chmura's gross income, employment taxes and taxes based on professional licenses or business operations which may be levied against Chmura.

(c)   <u>Invoicing and Payment</u>. Chmura accepts payments by check, ACH/Debit, EFT, VISA, MasterCard and American Express. Payment by credit card is subject to a 2% convenience fee. Chmura does not offer a discount for paying by check, ACH/Debit, or EFT. Unless otherwise expressly set forth on Schedule 1, Chmura shall bill Client quarterly in advance, with invoices due no later than the 10th of the month following the previous quarter. Payment shall be made by Client thirty days after receipt of a certified invoice in the office of the Auditor Controller. Invoices 45 days past due will result in a suspended subscription, if applicable.

6.   Limitations on Warranties and on Liability.

(a)   <u>DISCLAIMER OF WARRANTIES</u>. CHMURA MAKES NO WARRANTIES, EXPRESS OR IMPLIED, TO CLIENT OR TO ANY END-USER AS TO THE ACCURACY OR ADEQUACY OF OR OMISSIONS FROM ANY DATA OR AS TO THE ADEQUACY OF RESULTS TO BE OBTAINED BY USING THE JOBSEQ® PLATFORM, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. EXCEPT AS EXPRESSLY SET FORTH HEREIN, CHMURA DOES NOT WARRANT THAT: (i) THE JOBSEQ® PLATFORM WILL BE FREE FROM MINOR DEFECTS OR ERRORS THAT DO NOT MATERIALLY AFFECT ITS PERFORMANCE; (ii) THE JOBSEQ® PLATFORM WILL OPERATE UNINTERRUPTED OR CAN BE ACCESSED AND USED BY END USERS AT ALL TIMES WITHOUT INTERRUPTION, (iii) THE JOBSEQ® PLATFORM IS COMPATIBLE WITH ANY SOFTWARE, SERVICE OR HARDWARE UTILIZED BY CLIENT OR END USERS EXCEPT AS EXPRESSLY APPROVED IN WRITING BY CHMURA; OR (iv) THAT ANY DATA CONTAINED IN THE JOBSEQ® PLATFORM, IS SUFFICIENT TO MEET CLIENT'S OR ANY END USER'S BUSINESS, EDUCATIONAL OR TRAINING REQUIREMENTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT TO THE CONTRARY, THE JOBSEQ® PLATFORM, THE CHMURA SOFTWARE AND THE DATA ARE PROVIDED "AS IS" AND WITH ALL FAULTS.

(b)   <u>LIMITATION OF LIABILITY</u>. IN NO EVENT SHALL CHMURA BE LIABLE FOR DAMAGES UNDER THIS AGREEMENT EXCEEDING 400% OF THE ANNUAL LICENSE FEES PAYABLE BY CLIENT TO CHMURA UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES INCLUDING, BUT NOT LIMITED TO, ANY AND ALL LEGAL AND REGULATORY ACTIONS, ALLEGED DAMAGES, CLAIMS, LIABILITIES, COSTS, EXPENSES OR FINANCIAL LOSS, IN ANY WAY ARISING FROM OR RELATING TO THE PERFORMANCE OF THIS AGREEMENT REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. Indemnification.

(a)   By Chmura. Chmura shall indemnify, defend and hold harmless Client and its Affiliates and their respective officers, directors, employees, and agents (the "Client Indemnitees") from and against any loss, damages, expenses, and costs (including reasonable attorney's fees and court costs) (collectively, "Losses") suffered or incurred by the Client Indemnitees arising out of any threatened or actual claim, action or proceeding ("Claim") that the Chmura Products or Client Indemnitees' use thereof infringes a patent or copyright, or misappropriates a trade secret or otherwise violates the rights of a third party. Chmura shall control the defense of any such Claim and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof; provided that Chmura shall not enter any settlement that requires anything other than the payment of money without Client's prior written approval. Client shall cooperate, at Chmura's expense, with Chmura in any such defense and shall make available to Chmura all those persons, documents and things required by Chmura in the defense of any such Claim. Client may, at its expense, also assist in such defense with counsel of its own choosing.

(b)   Remedies. If Chmura is required to indemnify the Client Indemnitees pursuant to Section 7(a) above, Chmura shall, at its option, either procure for Client the right to continue using the Chmura JobsEQ® Platform or modify the Chmura JobsEQ® Platform to permit Client to exercise its rights hereunder. If the foregoing options are not available, either party may terminate this Agreement with thirty (30) days written notice. and in such event Chmura shall refund to Client the pro rata portion of the License Fee for that portion of the quarter occurring after the termination of the Agreement. Sections 7 (a) and (b) state Chmura's entire obligations concerning infringement of third party rights.

(c)   By Client. Client shall indemnify, defend and hold harmless Chmura and its officers, directors, employees, and agents against any and all Claims and Losses suffered or incurred by Chmura to the extent that they arise out of Client's use of the Chmura JobsEQ® Platform in a manner that violates the terms of this Agreement. Chmura shall control the defense of any such Claim and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof; provided that Chmura shall not enter any settlement that requires anything other than the payment of money without Client's prior written approval. Client shall cooperate, at Client's expense, with Chmura in any such defense and shall make available to Chmura all those persons, documents and things required by Chmura in the defense of any such Claim. Client may, at its expense, also assist in such defense with counsel of its own choosing.

8. Term and Termination.

(a)   Term. The initial subscription Term shall be as set forth on Schedule 1 or, if no Term is specified, then one year from the effective date of this Agreement, with the option to renew in writing for two subsequent terms available to Client.

(b)   Termination for Cause. Either party may terminate this Agreement at any time upon the occurrence of the following:

(i)   the voluntary or involuntary dissolution and liquidation of the other party, the filing of a voluntary petition in bankruptcy, the filing of an involuntary petition in bankruptcy by creditors of the other party, which petition is not dismissed within ninety (90) days, or a general assignment by the other party for the benefit of creditors; or

(ii)   if the other party has committed a material breach of any of the provisions of this Agreement, and such breach is not cured within thirty (30) days following the breaching party's receipt of notice from the non-breaching party specifying such breach; provided, however, that Chmura may at any time without prior notice terminate a specific End User's access to the Chmura JobsEQ® Platform if, (A) Client (or any End User) has breached its obligations under Section 2(b), (B) an End User's credentials have been compromised, or (C) any activity by Client or an End User appears to constitute misuse of, or may cause damage to, the Chmura JobsEQ® Platform or the Data.

(c)   Termination without Cause: Either party may terminate this Agreement at any time by providing thirty (30) days written notice.

(d)   Effect of Termination. Upon the termination of this Agreement pursuant to this Section 8 Chmura shall terminate Client's access to the Chmura JobsEQ® Platform and disable all passwords issued to Client and its End Users. In the event of termination of the Agreement for material breach by Chmura, Chmura shall refund to Client the pro-rata portion of the Annual License Fees paid by Client for the remainder of the then-current Term. In the event of termination of the Agreement for material breach by Client, then upon such termination, (A) Chmura shall be entitled to retain all License Fees paid by Client as of the date of termination, and (B) Client shall immediately pay Chmura all remaining License Fees due for the remainder of the then-current term.

9.   Confidential Information.

(a)   Generally. Each party (the "Receiving Party") will hold the Confidential Information of the other party (the "Disclosing Party") in confidence for the Disclosing Party and, except as may be authorized by the Disclosing Party in writing, the Receiving Party will not use or disclose Confidential Information to any persons except as contemplated hereunder. "Confidential Information" shall include any and all information of the Disclosing Party or its Affiliates which is disclosed hereunder and either identified in writing as "Confidential" or "Proprietary", or which, under the circumstances, ought reasonably to be treated as confidential or proprietary and shall include the Chmura Software, Documentation, and In Bulk Data.

(b)   Exceptions. These confidentiality obligations shall not apply: (i) to any information or development which is or subsequently becomes available to the general public other than through a breach of this Agreement by, or fault of, the Receiving Party, or any party to whom it discloses Confidential Information; (ii) to any information or development which the Receiving Party can establish was already known to it before disclosure by the Disclosing Party; (iii) to any information or development which is developed through the independent efforts of the Receiving Party without regard to, reliance upon, use of or reference to any Confidential Information of the Disclosing Party; (iv) to any information or development which the Receiving Party rightfully and lawfully receives from a third party which is not under restriction as to confidentiality or use of such information; or (v) to any disclosure required as a result of the process of law or under applicable law, or pursuant to the order or subpoena of a government agency or court of competent jurisdiction, provided that the Receiving Party immediately notifies the Disclosing Party of the matter, and permits the Disclosing Party to seek a protection order, if it deems it necessary, prior to the release of the Confidential Information.

(c)   <u>Survival</u>. The obligations of confidentiality contained herein will survive and continue in full force and effect after the expiration or termination of this Agreement and will bind the parties and their successors and assigns.

(d)   <u>Client User Information</u>. Notwithstanding anything herein to the contrary, it is understood that the Client User Information shall be considered Client Confidential Information and shall be treated as Confidential Information by Chmura and at no time shall be distributed to a third party or used by Chmura either before or after termination of this Agreement.

(e)   <u>Injunctive Relief</u>. In the event of use or disclosure of any Confidential Information in a manner inconsistent with this Agreement or any other breach of this Section 9, the parties hereto acknowledge that a party or its affiliates, as applicable, may be caused irreparable damage, and that monetary damages alone may not be an adequate remedy for such breach and, in addition to any other relief to which it may be entitled, the injured party shall be entitled to seek, temporary and permanent injunctive relief to restrain any such breach, threatened or actual, without the need to post a bond or similar undertaking.

10.   General Provisions.

(a)   <u>Independent Contractor.</u> Each party acknowledges and agrees that the other is an independent contractor and shall have no authority to act as an agent of the other, nor shall either party bind or purport to bind the other to any commitment or obligation.

(b)   <u>Assignment, Successors and Assigns.</u> This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Neither Client nor Chmura may assign its obligations hereunder, except either party may assign this Agreement in the event of a sale of substantially all of its assets or shares, or may assign this Agreement to its Affiliates, without the prior written consent of the other party which shall not be unreasonably withheld.

(c)   <u>Notices.</u> All Notices required by this Agreement for either party are to be in writing (which shall not include email unless expressly permitted in the section of this Agreement where notice is required) and shall be forwarded as follows:

(i)   <u>If to Chmura:</u>

Dr. Christine Chmura
Chmura Economics & Analytics, LLC
1309 East Cary Street
Richmond, VA 23219

With a copy to:

Janet P. Peyton, Esq.
McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, VA 23219

Juan Plasencia

Monterey County Department of Social Services

713 La Guardia Street

Salinas, CA 93905

Changes in address by either party shall be made by written notice to the other party as above provided. Notices required by this Agreement shall be deemed received (A) upon delivery, when delivered in person or by commercially receipted courier, (B) upon the date sent by facsimile, if confirmed by written courier delivery or U.S. Postal Service, or (C) five (5) days after deposit with the U.S. Postal Service by registered or certified mail. Notwithstanding the foregoing, invoices shall be sent to the Client billing contact identified on Schedule 1.

(d)   Entire Agreement. This Agreement constitutes the entire understanding between the parties, and supersedes all prior agreements, representations, memoranda, and correspondence concerning the understandings between the parties regarding the subject matter hereof.

(e)   Conflicts. In the event of a conflict between this Agreement and a Schedule, the terms of this Agreement shall govern, except as provided herein or to the extent the Schedule explicitly references this Section and the Section of the Agreement which it is modifying. The terms of this Agreement and each Schedule are to be construed, so far as is reasonably practicable, to be harmonious and consistent.

(f)   Governing Law; Venue. This Agreement shall be construed in accordance with and governed by the law of California . Each party hereby agrees to submit to jurisdiction of the state or federal courts situated in Monterey County, California.

(g)   Publicity. Client consents to Chmura's use of Client's name and logo for the sole purpose of acknowledging Client as a user of the Chmura JobsEQ® Platform and Data in marketing materials.

(h)   No Waiver. No modification, amendment, or waiver of the terms hereof shall be effective unless in the form of a written instrument signed by or on behalf of Chmura and Client.

(i)   Severability. If any provision of this Agreement, or the application thereof, will for any reason and to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of this Agreement will be interpreted so as best to reasonably effect the intent of the parties. The parties further agree to replace any such invalid or unenforceable provisions with valid and enforceable provisions designed to achieve, to the extent possible, the business purposes and intent of such invalid and unenforceable provisions.

(j)   Force Majeure. Neither party shall be held responsible for any delay or failure in performance hereunder caused by fires, strikes, embargoes, acts of God, acts of terrorism, or other causes beyond its reasonable control.

(k)   Survival. The rights and obligations of Sections 2(b), 6, 7, 8, 9, and 10 together with those other provisions which by their nature should survive, will so survive and continue in

full force and effect after any expiration or termination of this Agreement and will bind the parties and their successors and assigns.

(l)   <u>Section and Paragraph Headings</u>.   Section and paragraph headings are for purposes of identification only and are not to be deemed provisions of this Agreement or in any way to alter the contents of the sections or paragraphs they head.

(m)   <u>Jury Trial Waiver</u>. **EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE OR LEGAL PROCEEDING ARISING OUT OF THIS AGREEMENT OR THE SUBJECT MATTER HEREOF.**

(Signatures Follow)

IN WITNESS WHEREOF, the parties thereto have duly executed this Agreement to be effective as of the Effective Date.

Chmura Economics & Analytics, LLC

By: _____ *Leslie Peterson, President*
DocuSigned by:
0469A64744F0457...

Name: _____

Title: _____

Date: _____ 1/4/2021 | 6:56 PM EST

Name: _____

Monterey County Department of Social Services

By: _____ *Lori A. Medina, DSS Director*
DocuSigned by:
DF027950448749D...

Name: _ Lori A. Medina _____

Title: _ DSS Director _____

Date: _____ 1/28/2021 | 10:41 AM PST

Approved as to Form:

DocuSigned by:

By: _Anne Brereton, County Counsel_ **Date:** 1/7/2021 | 4:40 PM PST
        07025E3AA36B4A4

Deputy County Counsel

Approved as to Fiscal provisions:

DocuSigned by:

By: _Gary Giboney_ **Date:** 1/7/2021 | 4:54 PM PST
        D3834BFEC1D8449

Auditor Controller

Schedule 1
to
JobsEQ®
Subscription Agreement

Client: _____ **Monterey County Department of Social Services** _____

Term: The Term of this Agreement shall commence on the Effective Date and continue until the first anniversary of such date. Renewal terms shall be as set forth in the Agreement.

Six (6) Authorized End Users:

___1. Pending
___2. Pending
___3. Pending
___4. Pending
___5. Pending
___6. Pending

Annual License Fees: $19,031 payable upon invoice (see line items below)
  - $19,031 for JobsEQ and RTI

Client billing contact: Juan Plascencia - plascenciajp@co.monterey.ca.us

License provides access to the following geographic area:

USA

EXHIBIT A

AUTO LIABILITY MODIFICATION

Contractor will not be using vehicles for any aspect of this agreement. County and Contractor agree that Contractor's performance under this agreement is limited to software subscription licenses. In reliance thereon, automobile liability insurance is not required and the Additional Insured, Primary and Non-contributory endorsement requirement is waived.