

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**ITEM: 3.9
(ID # 10319)**

MEETING DATE:

Tuesday, November 19, 2019

FROM: PUBLIC SOCIAL SERVICES:

SUBJECT: DEPARTMENT OF PUBLIC SOCIAL SERVICES: Approve the Hardware and Software Maintenance and Support Agreement, and Purchase of 30 LiveScan Systems, a Storage and Forward Server, Professional Services, and System Maintenance from Gemalto Cogent, for a Period of Five Years, Without Seeking Competitive Bids. All Districts. [Total Cost \$270,112 - Federal 54.71%; State 19.67%; County 3.19%; Realignment 21.74%; Other 0.69%; up to \$27,011 in additional compensation]

RECOMMENDED MOTION: That the Board of Supervisors:

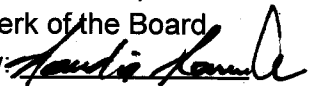
1. Approve the Hardware and Software Maintenance and Support Agreement with Gemalto Cogent, Inc. for the purchase of certain maintenance and support services for hardware and software purchases contemplated hereunder for a period of five years through June 30, 2024, and authorize the Purchasing Agent, or designee, to sign the Agreement on behalf of the County;
2. Approve the purchase of Thirty LiveScan systems, including software charges, installation, and training without seeking competitive bids for \$135,092;
3. Approve the purchase of a Store and Forward (SAF) server from Gemalto Cogent, which includes software, installation, and network integration to replace the end of life server without seeking competitive bids for \$47,553;

ACTION: Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: November 19, 2019
xc: DPSS

Kecia R. Harper
Clerk of the Board
By: 
Deputy

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4. Approve the purchase of maintenance and support from Gemalto Cogent without seeking competitive bids for \$87,467 for five years through June 30, 2024; and
5. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of funding and as approved by County Counsel to: (a) sign amendments that exercise the options of the agreement including modifications of the statement of work that stay within the intent of the Agreement and (b) sign amendments to the compensation provisions that do not exceed the sum total of ten percent (10%) of the total cost of the Agreement

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 135,092	\$ 17,496	\$ 270,112	\$ 0
NET COUNTY COST	\$ 4,309	\$ 558	\$ 8,616	\$ 0
SOURCE OF FUNDS: Federal 54.71%; State 19.67%; County 3.19%; Realignment 21.74%; Other 0.69%			Budget Adjustment:	No
			For Fiscal Year:	19/20–23/24

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The Department of Public Social Services (DPSS) fingerprints prospective foster parents, family members of prospective foster placements, In Home Supportive Services providers, volunteers and prospective employees, and is required to complete background checks to comply with Penal Code sections 11105(b)(10) and 13300(b)(10). LiveScan fingerprinting is necessary to complete these checks, and DPSS performs approximately four to five hundred LiveScan fingerprintings per month.

DPSS currently owns thirty-two Gemalto/Cogent LiveScan systems and a Gemalto/Cogent Store and Forward server; these systems send fingerprint scans to the server which transmits them to the Department of Justice (DOJ) for processing. However, these systems are up to seven years old, obsolete, and will no longer be supported by the vendor. Therefore, DPSS is requesting to purchase thirty LiveScan systems and one new SAF server.

DPSS recently purchased two additional LiveScan systems that work with DPSS' existing SAF server. Purchasing the thirty LiveScan systems with another vendor would require two separate servers. Reconfigurations to accommodate all systems would cause additional cost in hardware and services, and RCIT project management expenses. Purchasing the thirty fingerprint systems from Gemalto/Cogent will keep all thirty-two common systems on the same server.

RCIT has confirmed these facts and provided a technical document endorsing DPSS to stay with Gemalto/Cogent, (Attachment A), attached.

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Impact on Residents and Businesses

This updated equipment will enable DPSS to continue to assist the residents of Riverside County through completion of background checks on prospective foster parents, family members of prospective foster replacements, and In Home Supportive Services providers.

SUPPLEMENTAL:

Additional Fiscal Information

Description:	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24
Thirty (30) LiveScan systems, including software charges, installation, and training	\$135,092				
Store and Forward server from Gemalto Cogent, which includes software, installation, and network integration to replace the end of life server			\$47,553		
Maintenance and support from Gemalto Cogent		\$17,496	\$18,021	\$25,591	\$26,359
Total Costs: \$270,112	\$135,092	\$17,496	\$65,574	\$25,591	\$26,359

Contract History and Price Reasonableness

On March 6, 2012 County Purchasing, on behalf of DPSS, released RFQ # DPARC-262 for LiveScan Systems. Of the four (4) bids received, Gemalto/Cogent was the lowest priced responsive bidder.

In August 2016, DPSS purchased a SAF server to centralize the transmittal of fingerprint scans to the DOJ, and to comply with a DOJ directive to modernize the technology that DPSS used for transmittals. The cost of the server was \$49,310.80, but was projected to save DPSS \$166,606 in equipment and circuit costs over three (3) years. This purchase was completed as a sole source under the Purchasing Agent's authority. Also, in FY 16/17, DPSS purchased three (3) additional LiveScan systems (April 18, 2017, Agenda Item 3.15).

In 2017, the unit price for a LiveScan system, including services, was \$5,005; which was 22% less than GSA pricing. The current unit price is \$4,304.67, which is a 16.3% savings.

In 2016, the price for the SAF server was \$49,310.80. The current price is \$47,553, which is a 3.7% savings.

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Central Purchasing approved this RivcoPRO Single Source Procurement Requisition: 113094011 on August 26, 2019.

ATTACHMENTS:

Attachment A:

RCIT recommendation to maintain Gemalto Cogent as DPSS' LiveScan vendor.

Attachment B:

Agreement #DPSS-0001399

Attachment C:

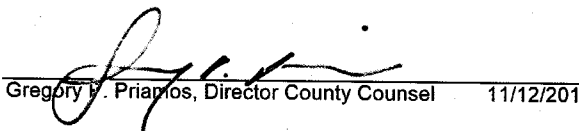
TPF 30 LiveScan Approved H-11

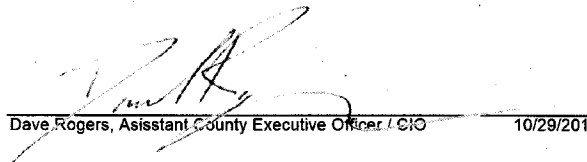
Attachment D:

RivcoPRO Single Source 113094011


Tina Grande, Assistant Purchasing Director 10/28/2019


Scott Bruckner 11/12/2019


Gregory P. Priamos, Director County Counsel 11/12/2019


Dave Rogers, Assistant County Executive Officer / CIO 10/29/2019

**HARDWARE AND SOFTWARE MAINTENANCE AND SUPPORT AGREEMENT
(FOR BIOMETRIC SYSTEMS CUSTOMERS)**

This Hardware and Software Maintenance and Support Agreement (the "**Agreement**") is made and entered into as of November 15, 2019 (the "**Effective Date**"), between Gemalto Cogent, Inc., a Delaware corporation having its principal place of business at 639 North Rosemead Boulevard, Pasadena, California 91107 ("**Gemalto Cogent**"), and the County of Riverside, a political subdivision of the State of California having its Department of Public Social Services Administration office at 4060 County Circle Drive, Riverside, CA 92503 ("**COUNTY**").

WHEREAS, the parties have entered into the Supply Agreement (as defined below), pursuant to which Gemalto Cogent has granted to COUNTY certain license rights in the Software (as defined below);

WHEREAS, the COUNTY has purchased the Hardware (as defined below) from Gemalto Cogent; and

WHEREAS, COUNTY desires to obtain and Gemalto Cogent agrees to provide maintenance and support services for such Hardware and Software, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions, which set forth the rights, duties and obligations of the parties:

NOTE: This Agreement does not contain any license terms and, accordingly, should be executed in connection with a license agreement for the applicable Software, which agreement should contain license terms governing the use of the Software.

1. DEFINITIONS

1.1 "Additional Support Term" has the meaning set forth in Section 8.1.

1.2 "Documentation" means the written materials, including instructions, rules, guidelines, manuals, and/or procedures, associated with the Software that Gemalto Cogent generally makes available to the COUNTY of such Software.

1.3 "Error" means a reproducible defect or combination of defects in the Software that results in a failure of the Software, when used in accordance with Gemalto Cogent's instructions (including, without limitation, the applicable Documentation), to function substantially in accordance with the Specifications. As used hereunder, a reproducible defect will mean a defect that Gemalto Cogent can reproduce using the most recent version of the Software, as delivered by Gemalto Cogent to COUNTY, in accordance with the terms of the Supply Agreement and the terms set forth herein.

1.4 "Error Correction" means either (a) a bug fix, patch, or other modification or addition that, when made or added to the Software, corrects an Error, or (b) a procedure or routine that, when observed in the regular operation of the Software, eliminates the practical adverse effect of an Error on COUNTY.

1.5 "Hardware" means the hardware purchased by COUNTY from Gemalto Cogent for use in connection with the Software as such hardware is further described on Exhibit C (Support Fees).

1.6 "Initial Support Term" has the meaning set forth in Section 8.1.

1.7 "Software" means the computer program(s) licensed by Gemalto Cogent to COUNTY pursuant to the Supply Agreement as further described on Exhibit C (Support Fees).

1.8 "Specifications" means the technical specifications for the Software as set forth in the applicable Documentation.

1.9 "Supply Agreement" means that certain agreement or purchase order entered into by and between Gemalto Cogent and COUNTY, dated November 15, 2019, which agreement or purchase order addresses the

purchase of Hardware and the license of Software from Gemalto Cogent and which is hereby incorporated herein by reference.

1.10 "Support Fees" has the meaning set forth in Section 5.1.

1.11 "Support Services" means the support and maintenance services provided by Gemalto Cogent pursuant to this Agreement, as further described herein.

1.12 "Support Services Term" has the meaning set forth in Section 8.1.

1.13 "Technical Contact" means the person or persons designated by COUNTY on Exhibit A (COUNTY's Primary Service Engineer(s)), attached hereto, as the initial interface for Error reporting for the Software and fault reporting for the Hardware.

1.14 "Update" means a revision of the Software which is released by Gemalto Cogent during the Term of this Agreement and which contains an Error Correction. Unless agreed otherwise in writing, any Updates provided to COUNTY during the Term of this Agreement will be provided by Gemalto Cogent to COUNTY at no extra charge so long as COUNTY is in compliance with the terms and conditions of the Agreement. Any revision of the Software that is not an Update shall be deemed an Upgrade.

1.15 "Upgrade" means a revision of the Software released by Gemalto Cogent during the Term of this Agreement which adds new and different functions to the Software or increases the capacity of the Software to process information. Gemalto Cogent is under no obligation to provide any Upgrades under this Agreement, but if any Upgrades are made available to COUNTY under this Agreement, each Upgrade will generally require COUNTY's payment of an additional charge.

2. HARDWARE MAINTENANCE AND SUPPORT

2.1 Fault Reporting and Correction. During the Support Services Term, on the terms and conditions of this Agreement, Gemalto Cogent shall repair or replace without charge to COUNTY any part of the Hardware found to be faulty by reason of defective material, design or workmanship. Hardware problems will be reported by COUNTY through COUNTY's Technical Contact to Gemalto Cogent at the support number set forth on Exhibit B (Technical Support Contact Information), as it may be revised by Gemalto Cogent from time to time. Each such report will be accompanied or followed by sufficient information to enable Gemalto Cogent to determine the cause of the Hardware problem. Gemalto Cogent will acknowledge each such report via telephone, facsimile transmission, or electronic mail to the Technical Contact and will use commercially reasonable efforts consistent with the severity of the problem to repair or replace the Hardware. Any Hardware replaced by Gemalto Cogent shall be replaced with hardware of comparable functionality, which may be new or reconditioned hardware. Gemalto Cogent will determine, in its sole discretion, the manner in which it will repair or replace the Hardware. Gemalto Cogent will pay all shipping costs required to ship the faulty Hardware to and from Gemalto Cogent.

2.2 On-site Support. Gemalto Cogent, may, in its sole discretion, provide emergency on-site support to COUNTY beyond the support described in Section 2.1 above. If Gemalto Cogent provides on-site support, such support will in all cases be subject to the availability of appropriate Gemalto Cogent personnel.

2.3 Exclusions from Hardware Maintenance and Support. Except as provided in Sections 2.1 and 2.2 above, Gemalto Cogent shall have no responsibility to provide Hardware maintenance or support. By way of example, but not as a limitation to the scope of the foregoing statement, Gemalto Cogent shall not be required to repair or replace any Hardware where Gemalto Cogent determines, in its sole and reasonable discretion, that the Hardware requires such repair or replacement to the extent arising from:

2.3.1 any changes or modifications to the Hardware or Software included on the Hardware in each case that were not made by Gemalto Cogent;

2.3.2 damage to the Hardware (other than normal wear and tear);

- 2.3.3 the failure of computer hardware, equipment, or software not supplied by Gemalto Cogent;
- 2.3.4 the negligence of COUNTY or any third party;
- 2.3.5 the use of operating systems or auxiliary devices (e.g., third party hardware components) in conjunction with Hardware or Software which have not been approved in writing by Gemalto Cogent for use with Hardware and Software;
- 2.3.6 attempted maintenance by unauthorized persons; or
- 2.3.7 COUNTY's use or improper use of the Hardware, or merging or combining the Hardware with any hardware or software not authorized by Gemalto Cogent to be so merged or combined.
- 2.3.8 Gemalto Cogent shall not be required to repair, replace, or upgrade any Hardware for the purpose of maintaining compatibility with third party hardware or software or updates thereof (including but not limited to third party operating systems), or where requested due to changes in COUNTY's IT policies (including but not limited to security policies).

3. SOFTWARE MAINTENANCE AND SUPPORT

3.1 Error Reporting and Correction. Gemalto Cogent will provide COUNTY with Software support by telephone 24 hours a day, 7 days a week. Each Error experienced by COUNTY related to COUNTY's use of the Software will be reported by COUNTY through COUNTY's Technical Contact to Gemalto Cogent at the support number set forth on Exhibit B (Technical Support Contact Information), as it may be revised by Gemalto Cogent from time to time. Each such Error report will be accompanied or followed by sufficient information to enable Gemalto Cogent to reproduce and verify the Error. Gemalto Cogent will acknowledge each such reported Error via telephone, facsimile transmission, or electronic mail to the Technical Contact and will use commercially reasonable efforts consistent with the severity of the Error to reproduce and verify reported Errors and provide Error Corrections therefor. Gemalto Cogent will determine, in its sole discretion, the priority level of each reported Error.

3.2 On-Site Support. Gemalto Cogent, may, in its sole discretion, provide emergency on-site support to COUNTY beyond the support described in Section 3.1, above. If Gemalto Cogent provides on-site support, such support will in all cases be subject to the availability of appropriate Gemalto Cogent personnel.

3.3 Exclusions from Software Maintenance and Support. Except as provided in Sections 3.1 and 3.2 above, Gemalto Cogent shall have no responsibility to provide Software maintenance or support. By way of example, but not as a limitation to the scope of the foregoing statement, Gemalto Cogent shall not be obligated to provide Software Maintenance and Support Services where:

- 3.3.1 the Software has been changed, modified, or damaged (excluding modifications made by Gemalto Cogent);
- 3.3.2 the Software Maintenance and Support Services are necessary due to: (a) failure of computer hardware, equipment, or software not supplied by Gemalto Cogent; (b) the negligence of COUNTY or any third party; (c) a cause or causes beyond the reasonable control of Gemalto Cogent; (d) attempted maintenance by unauthorized persons; (e) COUNTY's use or improper use of the Software, or the use, merging or combining of the Software with any hardware or software not authorized by Gemalto Cogent to be so merged or combined;
- 3.3.3 COUNTY has not installed and implemented any Error Corrections provided by Gemalto Cogent; or
- 3.3.4 COUNTY has not paid the Support Fees, or any related fees or amounts, when due.

- 3.3.5** Gemalto Cogent shall not be required to (i) repair, replace, or upgrade any Software to a subsequent version for the purpose of maintaining compatibility with third party software or updates thereof (including but not limited to third party operating systems), or where requested due to changes in COUNTY's IT policies (including but not limited to security policies); or (ii) provide Updates to third party software that is no longer supported by the third party vendor.

4. COUNTY RESPONSIBILITIES

4.1 COUNTY will be responsible for allowing Gemalto Cogent to implement all Error Corrections furnished by Gemalto Cogent and for paying all costs in connection with any Upgrades accepted by COUNTY under this Agreement.

4.2 COUNTY will be responsible for performing all data backups and Gemalto Cogent shall have no obligation to perform data backups for COUNTY nor any liability for COUNTY's failure to perform them.

4.3 COUNTY acknowledges that all Documentation, Software, Error Corrections, and Upgrades provided by Gemalto Cogent are subject to the conditions of the Supply Agreement, and COUNTY agrees to comply with those conditions.

4.4 COUNTY will fully cooperate and assist Gemalto Cogent in the provision of the Support Services, including allowing full and free access, including, but not limited to remote access, to relevant hardware, software, and other information if reasonably required by Gemalto Cogent.

5. FEES AND PAYMENTS

5.1 Support Fees. COUNTY will pay annual support fees for the Support Services based on Gemalto Cogent's then current annual rate for Support Services ("**Support Fees**"). Gemalto Cogent's current annual Support Fees are set forth in the attached Exhibit C (Support Fees). Payment for the Initial Support Term will be due and payable on the Effective Date. Payment for each Additional Support Term will be due and payable by COUNTY in advance of the commencement of such Additional Support Term. Gemalto Cogent will provide a proforma invoice thirty (30) days prior to the expiration of the then current Support term. Gemalto Cogent reserves the right to increase the annual Support Fees for any Additional Support Terms and will give COUNTY advance notice of such increases. If COUNTY fails to purchase Support Services concurrently with COUNTY's purchase of the Hardware and/or Software to be supported, or fails to renew Support Services upon termination of the Initial Support Term or any Additional Support Term, and COUNTY subsequently desires to commence Support Services for the Hardware and/or Software, Gemalto Cogent may, at its option, commence Support Services in accordance with Gemalto Cogent's then-current policies and upon payment by COUNTY of the then-applicable annual Support Fee and reinstatement fee for the period between Gemalto Cogent's original delivery of the Hardware and/or Software or termination of the Initial Support Term or any Additional Support Term (whichever is later) and COUNTY's purchase of the Support Services.

5.2 Taxes. All taxes and duties attributable to this Agreement (except taxes relating to Gemalto Cogent's net income), including sales, use, and any other tax assessed by local, state, or federal authorities, will be borne by COUNTY. COUNTY will reimburse Gemalto Cogent for any such taxes and duties.

5.3 Late Payment. Any sums not paid when due will automatically accrue interest on the 31st day after the date when due until actually paid at a rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is less.

6. DISCLAIMER OF WARRANTIES

GEMALTO COGENT DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO SERVICES PROVIDED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES THAT MAY ARISE FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITH RESPECT TO ANY HARDWARE FAULTS

REPORTED BY COUNTY TO GEMALTO COGENT, COUNTY AGREES THAT GEMALTO COGENT'S SOLE AND EXCLUSIVE OBLIGATION AND COUNTY'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT IS FOR GEMALTO COGENT TO USE COMMERCIALY REASONABLE EFFORTS TO REPAIR OR REPLACE THE HARDWARE IN ACCORDANCE WITH GEMALTO COGENT'S MAINTENANCE OBLIGATIONS PURSUANT TO SECTION 2 ABOVE. WITH RESPECT TO ANY ERRORS REPORTED BY COUNTY TO GEMALTO COGENT, COUNTY AGREES THAT GEMALTO COGENT'S SOLE AND EXCLUSIVE OBLIGATION AND COUNTY'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT IS FOR GEMALTO COGENT TO USE COMMERCIALY REASONABLE EFFORTS TO CORRECT SUCH ERRORS IN ACCORDANCE WITH GEMALTO COGENT'S SUPPORT OBLIGATIONS PURSUANT TO SECTION 3 ABOVE.

7. LIMITATION OF LIABILITY

GEMALTO COGENT'S AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT (WHETHER ARISING FROM CONTRACT OR OTHERWISE) IS LIMITED TO THE TOTAL AMOUNT OF FEES PAID BY COUNTY UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING GEMALTO COGENT'S RECEIPT OF NOTICE OF SUCH CLAIM. GEMALTO COGENT SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, ARISING FROM ITS PERFORMANCE OR NONPERFORMANCE UNDER THIS AGREEMENT.

8. TERM AND TERMINATION

8.1 Term. This Agreement will be effective November 15, 2019 and continue through June 30, 2024, unless terminated earlier.

8.2 Discontinuance of Support Services. Gemalto Cogent reserves the right to discontinue provision of the Support Services and terminate this Agreement should Gemalto Cogent, in its sole discretion, determine that the continued provision of Support Services for any Hardware or Software is no longer economically feasible, considering such factors as possible obsolescence and other factors Gemalto Cogent deems relevant. Gemalto Cogent will give COUNTY at least three (3) months prior written notice of any such discontinuance of Support Services and will refund any unaccrued Support Fees that COUNTY may have prepaid with respect to the affected Software. In all cases, Gemalto Cogent will have no obligation to support or maintain any version of the Software or operating system except (a) the then-current version of the Software, and (b) the immediately preceding version of the Software for a period of six (6) months after it is first superseded.

8.3 Termination for Cause. If either party materially defaults in any of its obligations under this Agreement, the non-defaulting party, at its option, will have the right to terminate this Agreement by written notice to the other party unless, within thirty (30) calendar days after receiving written notice of such default, the defaulting party remedies the default.

8.4 Termination without Cause. COUNTY may terminate this Agreement without cause upon giving thirty (30) calendar days written notice served on Gemalto Cogent stating the extent and effective date of termination.

8.5 Effect of Termination. Sections 1, 5 (to the extent fees or amounts due have accrued prior to expiration or termination), 6, 7, 8.4 and 13 will survive the expiration or termination of this Agreement for any reason.

9. INTEGRATION EFFORTS NOT INCLUDED.

THIS AGREEMENT DOES NOT INCLUDE ANY INSTALLATION OR DEPLOYMENT ACTIVITIES OR ANYTHING RELATED TO HARDWARE OR SOFTWARE OUTSIDE THE PROJECT DELIVERY SCOPE. THIS AGREEMENT COVERS ONLY THOSE PRODUCTS LISTED ON EXHIBIT C (SUPPORT FEES).

10. DATA BACKUP

Gemalto Cogent is not responsible for executing or validating data backup for the System unless specific pricing for such activities is set forth in Exhibit C (Support Fees). Notwithstanding the foregoing statement, if requested by COUNTY, Gemalto Cogent will suggest recommended data backup practices for COUNTY to following regarding the System. In the event of a need by COUNTY for data restoration, Gemalto Cogent may provide reasonable assistance to COUNTY in COUNTY's efforts to recover data with data backup provided by COUNTY. Gemalto Cogent is not responsible for any data lost if data is not backed up properly.

11. SERVICE LEVEL AGREEMENT

The Service Level Agreement applicable to Support Services offered under this Agreement is attached hereto and incorporated herein by reference as Exhibit D (Service Level Agreement).

12. GENERAL

12.1 Force Majeure. Neither party will be responsible for any delay or failure in performance to the extent that such delay or failure is caused by fires, strikes, embargoes, explosion, earthquakes, floods, wars, labor disputes, terrorism, government requirements, civil or military authorities, acts of God or by the public enemy, inability to secure raw materials or transportation facilities, acts or omissions of carriers or suppliers, or other causes beyond its reasonable control. Gemalto Cogent's inability to supply Hardware, Software, Support Services or other materials or services of whatever nature due to the inability to obtain or maintain required export authorization shall not constitute a breach of this Agreement and Customer hereby acknowledges this risk.

12.2 Severability. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then each provision not so affected will remain in full force and effect.

12.3 Assignment. Neither party may assign this Agreement or any of its rights or delegate any of its obligations under this Agreement, by operation of law or otherwise, without the prior written consent of the non-assigning party. This Agreement will bind each party and its permitted successors and assigns.

12.4 Disputes. This Agreement is to be construed in accordance with and governed by the internal laws of the State of California (as permitted by Section 1646.5 of the California Civil Code or any similar successor provision) without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the internal laws of the State of California to the rights and duties of the parties. Any legal suit, action, or proceeding arising out of or relating to this Agreement will be commenced in a federal court in the Central District of California or in state court in the County of Riverside, California, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action, or proceeding.

12.5 No Waiver. No course of dealing, course of performance, or failure of either party strictly to enforce any term, right, or condition of this Agreement will be construed as a waiver of any other term, right, or condition. No waiver or breach of any provision of this Agreement will be construed to be a waiver of any subsequent breach of the same or any other provision.

12.6 Relationship of the Parties. This Agreement will not be construed as creating an agency, partnership, joint venture, or any other form of association, for tax purposes or otherwise, between the parties, and the parties will at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party will have any right or authority, express or implied, to assume or create any obligation of any

kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.

12.7 Notices. All notices, claims, correspondence, or statements authorized or required by this Agreement shall be deemed effective three (3) business days after they are made in writing and deposited in the United States mail addressed as follows:

COUNTY
Department of Public Social Services
Contracts Administration Unit
P.O. Box 7789
Riverside, CA 92513

Invoices and other financial documents:
Department of Public Social Services
Fiscal/Management Reporting Unit
4060 County Circle Drive
Riverside, CA 92503

GEMALTO COGENT, INC.
639 North Rosemead Boulevard
Pasadena, CA 91107

12.8 Complete Agreement. This Agreement, any exhibits and schedules attached to it, and any agreements or terms and conditions incorporated by reference herein, contain the entire understanding of the parties with respect to the subject matter hereof and supersede any and all prior related understandings, agreements, representations, negotiations, and discussions, whether oral or written. This Agreement cannot be modified or amended except in a writing signed by both parties.

13. INSURANCE

A. Without limiting or diminishing GEMALTO COGENT's obligation to indemnify or hold COUNTY harmless, GEMALTO COGENT shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, COUNTY herein refers to the County of Riverside, its agencies, districts, special districts, and departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

B. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an AM BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

C. GEMALTO COGENT's insurance carrier(s) must declare its insurance self-insured retentions. If such self-insured retentions exceed \$500,000 per occurrence such retentions shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to COUNTY, and at the election of the County's Risk Manager, GEMALTO COGENT's carriers shall either; 1) reduce or eliminate such self-insured retention as respects to this Agreement with COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

D. GEMALTO COGENT shall cause GEMALTO COGENT's insurance carrier(s) to furnish the COUNTY with either 1) a properly executed original certificate(s) of insurance and certified original copies of endorsements effecting coverage as required herein, or 2) if requested to do so orally or in writing by the County Risk Manager,

provide original certified copies of policies, including all endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) calendar days written notice shall be given to the COUNTY prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the COUNTY receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverages set forth herein and the insurance required herein is in full force and effect. GEMALTO COGENT shall not commence operations until the COUNTY has been furnished original certificate(s) of insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the certificate of insurance.

E. It is understood and agreed to by the parties hereto that GEMALTO COGENT's insurance shall be construed as primary insurance, and COUNTY's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

F. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services, or there is a material change in the equipment to be used in the performance of the scope of work which will add additional exposures (such as the use of aircraft, watercraft, cranes, etc.), or the term of this Agreement, including any extensions thereof, exceeds five (5) years, the COUNTY reserves the right to adjust the types of insurance required under this Agreement and the monetary limits of liability for the insurance coverages currently required herein if, in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the GEMALTO COGENT has become inadequate.

G. GEMALTO COGENT shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

H. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to COUNTY.

I. GEMALTO COGENT agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

13.1 WORKER'S COMPENSATION

If GEMALTO COGENT has employees as defined by the State of California, GEMALTO COGENT shall maintain statutory Worker's Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside, and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

13.2 VEHICLE LIABILITY

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then GEMALTO COGENT shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit. Policy shall name COUNTY as additional Insured.

13.3 COMMERCIAL GENERAL LIABILITY

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of GEMALTO COGENT's performance of its obligations hereunder. Policy shall name the COUNTY as additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit.

13.4 CYBER LIABILITY

GEMALTO COGENT shall procure and maintain for the duration of the contract insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work hereunder by GEMALTO COGENT, its agents, representatives, or employees. GEMALTO COGENT shall procure and maintain for the duration of the contract insurance claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.

GEMALTO COGENT shall procure and maintain cyber liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by GEMALTO COGENT in this Agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

If GEMALTO COGENT maintains broader coverage and/or higher limits than the minimums shown above, COUNTY requires and shall be entitled to the broader coverage and/or higher limits maintained by GEMALTO COGENT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to COUNTY.

14. HOLD HARMLESS/INDEMNIFICATION


GEMALTO COGENT agrees to indemnify and hold harmless COUNTY, its departments, agencies and districts, including their officers, employees and agents (collectively "County Indemnitees"), from any liability, damage, claim or action based upon or related to any services or work of GEMALTO COGENT (including its officers, employees, agents, subcontractors or suppliers) arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury or death. GEMALTO COGENT shall, at its sole expense and cost including but not limited to, attorney fees, cost of investigation, defense, and settlements or awards, defend County Indemnitees in any such claim or action. GEMALTO COGENT shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of COUNTY which shall not be unreasonably withheld; and shall have the right to adjust, settle, or compromise any such claim or action so long as that does not compromise GEMALTO COGENT's indemnification obligation. GEMALTO COGENT's obligation hereunder shall be satisfied when GEMALTO COGENT has provided COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim made. The insurance requirements stated in this Agreement shall in no way limit or circumscribe GEMALTO COGENT's obligations to indemnify and hold COUNTY harmless.

GEMALTO COGENT, INC.

 Authorized Signature

 Xu Chen
 Name (Type or Print)

 Controller
 Title
 639 N. Rosemead Blvd
 Pasadena CA 91107
 Address

 10/31/2019
 Date
COUNTY OF RIVERSIDE**DEPARTMENT OF PUBLIC SOCIAL SERVICES**

 Authorized Signature

 Scott Haddon
 Name (Type or Print)

 Senior Procurement Contract Specialist
 Title

 10281 Kidd Street, Riverside, CA 92503
 Address

 11/27/2019
 Date
FORM APPROVED COUNTY COUNSEL
 BY:  11/7/19
 SUSANNA N. OH DATE

EXHIBIT A

COUNTY'S PRIMARY SERVICE ENGINEER(S)

COUNTY's Primary Service Engineer:

NAME: Jamie Bustamante

PHONE: 951-358-3905

EMAIL: JBustama@rivco.org

EXHIBIT B

TECHNICAL SUPPORT CONTACT INFORMATION

Phone: 1-866-500-AFIS (or 1-866-500-2347)
Email: CgtHelpdesk@gemalto.com
Web Portal: <https://gemalto-cogent.force.com>

Escalations

If for any reason your service items are not being addressed appropriately and in a timely fashion, please use the following email addresses to escalate your concern to Gemalto Cogent Leadership directly.

2nd Level Escalation

Helpdesk Management and Account Management

Please escalate your concerns to your Assigned Account Manager and CGTServiceDeskEscalation@gemalto.com.

3rd Level Escalation

Business Management

If you are unable to resolve your concerns with 2nd level escalation, please escalate to CGTServiceDeskMgmt@gemalto.com.

EXHIBIT C**SUPPORT FEES****PLEASE LIST COVERED HARDWARE AND SOFTWARE AND RELATED FEES****1. QUOTE R1-01519-010CK – STORE AND FORWARD SERVER**

- **SOFTWARE - \$14,101.00**
- **SERVER HARDWARE - \$8,865.00**
- **SERVICES SYSTEM INTEGRATION LABOR - \$23,899.00**
- **EXTENDED WARRANTY WITH MAINTENANCE/SUPPORT FEES, ITEMS ABOVE YEAR 2 - \$7,029.82, ABOVE YEAR 3 - \$7,240.71**

2. QUOTE R1-01519-010CK – LIVESCAN HARDWARE AND SOFTWARE

- **CS500E TENPRINT SCANNER, QTY 30 - \$40,500.00**
- **CA APPROVED APPLICANT LIVESCAN SOFTWARE, QTY 30 - \$45,000.00**
- **LAPTOP COMPUTERS, QTY 30 - \$26,970.00**
- **MINIMAG MAGSTRIP READER, QTY 30 - \$4,170.00**
- **INSTALLATION AND TRAINING, QTY 30 - \$12,500.00 (PRICE INCLUDES \$10,000.00 DISCOUNT)**
- **EXTENDED WARRANTY WITH MAINTENANCE/SUPPORT FEES, ITEMS ABOVE YEAR 2 - \$17,496.00, ABOVE YEAR 3 - \$18,020.88, ABOVE YEAR 4 - \$18,561.51, ABOVE YEAR 5 - \$19,118.35**

3. TOTAL COST BY YEAR

- **FY 19/20, YEAR 1: CS500E TENPRINT SCANNER, QTY 30 - \$40,500.00, LAPTOP COMPUTERS, QTY 30 - \$26,970.00, MINIMAG MAGSTRIP READER, QTY 30 - \$4,170.00, CA APPROVED APPLICANT LIVESCAN SOFTWARE, QTY 30 - \$45,000.00, INSTALLATION AND TRAINING \$12,500.00, FREIGHT SHIPPING \$400.00, SALES TAX \$5,552.10 = GRAND TOTAL \$135,092.10**
- **FY 20/21, YEAR 2: LIVESCAN HARDWARE AND SOFTWARE EXTENDED WARRANTY WITH MAINTENANCE \$17,496.00 = GRAND TOTAL \$17,496.00**
- **FY 21/22, YEAR 3: LIVESCAN HARDWARE AND SOFTWARE EXTENDED WARRANTY WITH MAINTENANCE \$18,020.88, STORE AND FORWARD SERVER SOFTWARE \$14,101.00, STORE AND FORWARD HARDWARE \$8,865.00, SERVICES SYSTEM INTEGRATION LABOR - \$23,899.00, SALES TAX \$687.07 = GRAND TOTAL \$65,572.92**

EXHIBIT C CONTINUED

- **FY 22/23, YEAR 4: LIVESCAN HARDWARE AND SOFTWARE EXTENDED WARRANTY WITH MAINTENANCE \$18,561.51, STORE AND FORWARD EXTENDED WARRANTY WITH MAINTENANCE \$7,029.82 = GRAND TOTAL \$25,591.33**
- **FY 23/24, YEAR 5: LIVESCAN HARDWARE AND SOFTWARE EXTENDED WARRANTY WITH MAINTENANCE \$19,118.35, STORE AND FORWARD EXTENDED WARRANTY WITH MAINTENANCE \$7,240.71 = GRAND TOTAL \$26,359.06**
- **GRAND TOTAL FOR ALL 5 YEARS \$270,111.41**

EXHIBIT D**SERVICE LEVEL AGREEMENT**

Severity	Severity Definition	Detail Description	Example(s)	Response Time
Critical	Full System Outage, or Critical Impact to System Usability	Problems that cause total failure of the full system (unscheduled) or stop a user from completing a business critical function. There are no work-arounds available. COUNTY must be available to work toward a resolution.	Entire AFIS system is inoperable.	1 business hour
Major	Partial System Outage or Major Impact to System Usability >50%+ of COUNTYs or critical functionality	Problems that cause total failure of a critical system component (unscheduled). There are no work-arounds available. COUNTY must be available to work toward a resolution.	Critical AFIS components are inoperable (ten-print searching).	2 business hours
Significant	Significant Impact to Usability >25% of COUNTYs or daily used functionality	Problems that cause a significant performance impact to any system component (unscheduled), or impacting more than 50% of the system's transactions. A short-term work-around is available. COUNTY must be available to work toward a resolution.	Multiple workstations are completely inoperable (Livescan Booking, Tenprint Analysis, Latent Analysis) -OR- System response is not meeting contractual obligations	2 business hours
Medium	Moderate Impact to Usability <25% of users or moderately used functionality	Problems that cause a moderate impact on COUNTY's productivity, system performance or system functionality. A mid-term work-around is available. COUNTY must be available to work toward a resolution.	Workstation or device is not functioning within designed specifications	4 business hours
Low	Low impact to COUNTYs	Problems that cause little to no effect to COUNTY's productivity, system functionality or system performance.	Inconvenient error message -OR- Intermittent problem	8 business hours