

**FIRST AMENDMENT TO THE AGREEMENT
FOR HR, PAYROLL, BUDGET, AND TIMEKEEPING SYSTEMS
BETWEEN THE CITY OF SAN JOSE AND
CHERRYROAD TECHNOLOGIES INC.**

This First Amendment to the Agreement between the City of San José, a municipal corporation (hereinafter “City”), and CherryRoad Technologies Inc., a Florida corporation authorized to conduct business in the State of California, (hereinafter "CherryRoad" or "Contractor"), is entered into on the date of execution by City (“Effective Date”). Each of City and Contractor are sometimes referred to as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, on July 2, 2015, City and Contractor entered into an agreement entitled “Agreement for HR, Payroll, Budget and Timekeeping Systems” (“Agreement”); and

WHEREAS, on November 25, 2015, City and Contractor executed Change Order #1 for \$45,000 and a revised Agreement maximum compensation of \$6,758,699 to provide optional services to meet the IRS’s Affordable Healthcare Act (“ACA”) deadlines and filing requirements; and

WHEREAS, on February 5, 2016, City and Contractor executed Change Order #2 for \$92,500 and a revised Agreement maximum compensation of \$6,851,199 to provide the City with assistance for design, development, testing, and knowledge transfer; and

WHEREAS, on February 5, 2016, City and Contractor executed Change Order #3 for \$36,271 and a revised Agreement maximum compensation of \$6,887,470 to increase Taleo subscriptions to reflect the increase in the number of City employees; and

WHEREAS, on February 29, 2016, City and Contractor executed Change Order #4 for \$109,150 and a revised Agreement maximum compensation of \$6,996,620 to provide hourly services for analysis, creation, development, and unit testing related to time and labor overtime and compensation; and

WHEREAS, on March 22, 2016, City and Contractor executed Change Order #5 for \$33,300 and a revised Agreement maximum compensation of \$7,029,920 to provide additional hourly services for analysis, creation, development, and unit testing related to time and labor overtime and compensation; and

WHEREAS, on May 12, 2016, City and Contractor executed Change Order #6 for \$29,600 and a revised Agreement maximum compensation of \$7,059,520 to provide hourly services to analyze and modify the City’s financial reporting of retirement funds to comply with Governmental Accounting Standards Board (“GASB”) requirements; and

WHEREAS, on September 16, 2016, City and Contractor executed Change Order #7 for \$0 with no change in the Agreement maximum compensation of \$7,059,520 to modify the payment schedule to decrease the retainage release, remove remaining unpaid deliverables, and combine them into progress payments and decrease the one-time cost of Hyperion upgrade optional managed services; and

WHEREAS, on November 3, 2016, City and Contractor executed Change Order #8 for \$427,430 and a revised Agreement maximum compensation of \$7,486,950 to provide hourly services for system stabilization, PeopleSoft to Taleo integration, knowledge transfer, additional development and implementation, updates for Affordable Healthcare Act (ACA), and integration with Kaiser; and

WHEREAS, on November 16, 2016, City and Contractor executed Change Order #9 for \$966,786 and a revised Agreement maximum compensation of \$8,453,736 for managed services and a second site managed router; and

WHEREAS, on January 18, 2017, City and Contractor executed Change Order #10 for \$210,800 and a revised Agreement maximum compensation of \$8,664,536 to remove PeopleSoft reporting knowledge transfer and add additional support; and

WHEREAS, on May 1, 2017, City and Contractor executed Change Order #11 for \$0 with no change in the Agreement maximum compensation of \$8,664,536 to split retainage release into two (2) separate payments and set parameters for release of 50% of retainage subject to Contractor's completion of specified tasks; and

WHEREAS, on March 28, 2018, City and Contractor executed Change Order #12 for \$10,205 and a revised Agreement maximum compensation of \$8,674,741 to adjust Taleo annual subscriptions to reflect increases in the number of City employees; and

WHEREAS, on February 12, 2019, City and Contractor executed Change Order #13 for \$0 with no change in the Agreement maximum compensation of \$8,674,741 to adjust Taleo annual subscriptions to reflect increases in the number of City employees; and

WHEREAS, City and Contractor now wish to amend the Agreement to (a) extend managed services through December 31, 2021 based on time and materials pricing for an increase in compensation of \$117,000; (b) extend second site managed router based on current rates through December 31, 2021 for an increase in compensation of \$3,000; (c) extend hosting services for Hyperion and PeopleSoft at current rates through December 31, 2021 for an increase in compensation of \$210,000; (d) roll over 450 unused managed services hours for use by the City on an as-requested basis; and (e) add one (1) three-year option to extend the Agreement through December 31, 2024 at fixed rates for the full three-year option, followed by up to two (2) additional one-year options to further extend the Agreement through December 31, 2026;

NOW THEREFORE, the Parties agree to further amend the amended Agreement as follows:

SECTION 1. Section 1 "AGREEMENT DOCUMENTS" is hereby amended to add Exhibit 7 "Notice of Option to Extend Agreement," which is attached hereto and incorporated herein.

SECTION 2. Section 2 “TERM OF AGREEMENT” is hereby amended to read as set forth below:

2 TERM OF AGREEMENT

2.1 TERM

The term of this Agreement is from July 2, 2015 to December 31, 2021 (“Initial Term”), inclusive, subject to the provisions of Section 12 TERMINATION and subsection 2.2 “Options to Extend.”

2.2 OPTIONS TO EXTEND

After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for one (1) three-year option term at fixed pricing through December 31, 2024 followed by up to two (2) additional one-year terms through December 31, 2026 (“Option Periods”) for ongoing software subscriptions, hosting, managed services, second router, maintenance, support, and related professional services. City shall provide Contractor written notice in the form of Exhibit 7 of its intention to exercise its option prior to the end of the then current term.

SECTION 3. The Agreement is hereby amended to add Section 34 entitled “WAGE THEFT PROVISIONS” as set forth below:

34 WAGE THEFT PROVISIONS

34.1 DEFINITION

For purposes of this provision, “Wage Theft” means a final judgement, order, or other determination of a federal or state court, or of a federal, state, or local administrative agency that a contractor or subcontractor failed to pay its workers in accordance with any applicable federal, state, or local wage and hour laws, regulations, or other requirements. A judgement, order, or other determination is “final” if the contractor or subcontractor has exhausted all appeals, and the time period to appeal has expired.

34.2 COMPLIANCE WITH WAGE AND HOUR LAWS

The Contractor must comply with all applicable federal, state, and local wage and hour laws, regulations, and policies, as required by City Council Policy 0-44 <https://www.sanjoseca.gov/home/showdocument?id=12945>. The Contractor must include this requirement in each of its subcontracts.

34.3 REPRESENTATIONS IN WAGE THEFT DISCLOSURE CERTIFICATION FORMS

The City awarded this Agreement to the Contractor, in part, based on the representations made by the Contractor and its listed subcontractors in the Proposal Certification or Wage Theft Disclosure Certification Form that they completed as part of the of procurement process.

34.3.1 Contractor Warranty: By executing this Agreement, the Contractor affirms the accuracy of the representation it made in its Proposal

Certification or Wage Theft Disclosure Certification Form. It is a material breach of this Agreement if the City determines that the Proposal Certification or Wage Theft Disclosure Certification Form contained any material inaccuracies.

34.3.2 **Listed Subcontractors:** The Contractor must include in the subcontract of all subcontractors that it listed during the procurement, a provision that does the following:

34.3.2.1 Requires the subcontractor to warrant the accuracy of the Proposal Certification or Wage Theft Disclosure Certification Form that it submitted during the procurement of this Agreement,

34.3.2.2 Allows the Contractor to terminate the subcontract if the City or the Contractor determines that the Proposal Certification or Wage Theft Disclosure Certification Form contained any material inaccuracies.

34.3.3 **Termination of Subcontractor:** The Contractor must terminate a listed subcontractor if requested by the City based on the subcontractor's submittal of a materially inaccurate Proposal Certification or Wage Theft Disclosure Certification form.

34.4 SUBCONTRACTORS NOT LISTED

Before contracting with a subcontractor not listed during the procurement process, the Contractor will require the subcontractor to complete a Wage Theft Disclosure Certification Form provided by the City's Office of Equality Assurance through their website at <https://www.sanjoseca.gov/home/showdocument?id=64354>. The Contractor must provide the completed certification form to the City within ten (10) calendar days of executing the subcontract.

34.4.1 The Contractor cannot use any subcontractor that has one or more Wage Theft violations, or has one (1) outstanding, unpaid Wage Theft violation, within five (5) years before the date it certified the Wage Theft Disclosure Certification Form.

34.4.2 The Contractor must include a provision in each subcontract allowing the Contractor to terminate the subcontract based on the subcontractor's submission of a materially inaccurate Wage Theft Disclosure Certification Form. The Contractor must terminate a subcontractor if requested by the City based on the subcontractor's submittal of a materially inaccurate Wage Theft Disclosure Certification Form.

34.5 OCCURRENCE OR DISCOVERY OF WAGE THEFT

The Contractor must notify, in writing, the City's Office of Equality Assurance no more than fifteen (15) calendar days after either of the following events: (1) any Wage Theft that occurs during the term of the Agreement involving the Contractor or a subcontractor, and (2) the Contractor becomes aware of Wage

Theft by the Contractor or a subcontractor that should have been previously disclosed but was not.

- 34.5.1 **Satisfaction by Contractor:** The Contractor must promptly satisfy and comply with a Wage Theft judgement, order, or other determination against it. The Contractor must provide the City's Office of Equality Assurance with documentary evidence that it satisfied and complied with the Wage Theft judgement, order, or other determination within five (5) calendar days of doing so.
- 34.5.2 **Satisfaction by Subcontractor:** The Contractor must include appropriate provisions in each subcontract requiring the subcontractor to do the following: (a) promptly satisfy and comply with a Wage Theft judgement, order, or other determination against it and (b) provide the Contractor and the City's Office of Equality Assurance with documentary evidence that it satisfied and complied with the Wage Theft judgement, order or other determination within five (5) calendar days of doing so.
- 34.5.3 **City's Right to Withhold Payment:** The City has the right to withhold any moneys owing the Contractor in the amount of the Wage Theft against the Contractor or a subcontractor.

34.6 MATERIAL BREACH

Contractor's failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

34.7 NOTICE

Notice provided to the Office of Equality Assurance as required under this Section shall be addressed to: Office of Equality Assurance, 200 East Santa Clara Street, 5th Floor, San José, CA 95113. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

SECTION 4. Section 7 "COMPENSATION," Subsection 7.1 "CONTRACT PRICE" is hereby amended to read as set forth below:

7.1 CONTRACT PRICE

The total contract price in U.S. dollars shall not exceed **Nine Million Four Thousand Seven Hundred Forty-One Dollars (\$9,004,741)** during the Initial Term ("Maximum Compensation"). The terms, rates, and schedule of payment are set forth in the attached Twelfth Revised Exhibit 2 entitled "Compensation." Contractor shall submit to City invoices on a monthly basis that include a breakdown of Services as provided in attached Twelfth Revised Exhibit 2. City will make payments to Contractor within thirty (30) days after City's acceptance of a properly completed invoice. City will make payments

when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution.

SECTION 5. Section 32 “MISCELLANEOUS” is hereby amended to add Subsections 32.4 “COUNTERPARTS” and 32.5 “USE OF ELECTRONIC SIGNATURES” as set forth below:

32.4 COUNTERPARTS

This Agreement may be executed in any number of counterparts and by each Party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

32.5 USE OF ELECTRONIC SIGNATURES

Unless otherwise prohibited by law or City policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the City.

SECTION 6. Eleventh Revised Exhibit 2 “COMPENSATION” is hereby replaced in its entirety with the Twelfth Revised Exhibit 2, which is attached hereto and incorporated herein.

All terms and conditions of the Agreement not expressly modified by this First Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year set forth beneath the respective names below.

City of San José
a municipal corporation

By: _____
Jennifer Cheng
Deputy Director of Finance
Date: _____

APPROVED AS TO FORM:

Rosa Tsongtaatarii
Senior Deputy City Attorney

CherryRoad Technologies Inc.
a Florida corporation authorized to conduct
business in the State of California

By: _____
Steve Lange
President and COO
Date: _____

By: _____
Nick Visco
CFO
Date: _____

TWELFTH REVISED EXHIBIT 2 – COMPENSATION

The maximum amount of compensation to be paid to Contractor under this Agreement shall not exceed **Nine Million Four Thousand Seven Hundred Forty-One Dollars (\$9,004,741)**. Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the City.

Payment for any part or parts of the System provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any and all of the System which does not conform to the Specifications or other requirements of this Agreement. Components of the System which are rejected shall be promptly corrected, repaired, or replaced by Contractor. If City receives components of the System with defects or nonconformities not reasonably apparent on inspection, then City reserves the right to require prompt correction, repair, or replacement by Contractor in accordance with Contractor's obligations. City shall not approve payment for any deliverable that has not passed acceptance in accordance with the acceptance criteria established for that deliverable.

The terms of payment shall be net thirty days upon City's acceptance of a properly completed invoice. All payments associated with project deliverables shall be based on Contractor's successful completion, and City's acceptance of each milestone.

Contractor will invoice City monthly, in arrears. Each invoice will include a subtotal for each of the line items listed below:

- Hosting Services for the month
- Project Management Services incurred during the invoice period
- Travel Expenses incurred during the invoice period
- Deliverables Accepted during the invoice period
- Annual SaaS Fees (if applicable) due for payment during the invoice period
- Optional Services (if applicable) performed during the month and authorized by the City pursuant to the terms of this Agreement

City shall prepay a year in advance for the SaaS Fees provided under this Agreement at the start of each year. In the event of early termination of the Agreement, Contractor shall refund the City any SaaS Fees not expended and paid in advance on a prorated basis.

The City agrees to compensate Contractor for the Services performed in accordance with the terms and conditions of this Agreement. All payment amounts are stated in United States Currency. Contractor shall invoice the City according to Payment Schedule below.

In the event the City terminates this Agreement for any reason other than Termination for Contractor's Default as stated in Section 12.2 of the Terms and Conditions, Contractor shall be entitled to a prorated portion of the Final Acceptance Payment Deliverable amount equal to ten

(10%) of the total amount of Payment Deliverables accepted by the City prior to the effective date of termination.

Renewal Period Compensation:

After the Initial Term, the City reserves the right to extend the term of this Agreement pursuant to Section 2.2 (“Options to Extend”) at the same rates as the Initial Term unless otherwise requested and agreed to in writing by the Parties.

Price Renegotiation. After the first three-year option which will be subject to the fixed rates noted below in the First Option Term Pricing (January 1, 2022 – December 31, 2024) table, Contractor may request adjustments to compensation rates sixty (60) days prior to the end of the then current term. Contractor shall provide information in support of the proposed increase, and City shall not unreasonably withhold approval of any increase provided the renewal quote for ongoing services does not increase by more than the Producer Price Index (PPI) final demand - WPUFD4 (<https://data.bls.gov/cgi-bin/surveymost?wp>) and does not exceed 3% over the previous year’s fees, unless otherwise negotiated.

City shall provide Contractor prior written notice in the form of Exhibit 7 of its intention to exercise its option for the next term prior to the end of the then current term. The City’s Director of Finance or designee is authorized to exercise options on behalf of the City.

Optional Services:

The City may elect to purchase additional services from Contractor beyond those services specified in this Agreement. Such services shall be referred to as Optional Services. Contractor agrees to provide the Optional Services at the prices stated below during the term of this Agreement. In the event the City chooses to purchase Optional Services, a Change Order will be executed stating the scope and cost of the Optional Services.

Payment Schedule

Payment Deliverable	Project Area	Invoicing Frequency	UOM	Frequency	Unit Cost	Extended Cost
O1.2 Project Team Kickoff	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$146,074	\$146,060
U3.1 Test Move 1 Completed	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$146,074	\$146,074
U4.1 Test Move 2 Completed	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$146,074	\$146,074
O1.2 Project Team Kickoff	Time and Labor/ Absence Mgt	Upon Acceptance	ea	1	\$109,841	\$109,841
F2.2 Fit/Gap Analysis Document	Time and Labor/ Absence Mgt	Upon Acceptance	ea	1	\$109,841	\$109,841
P2.1 Project Scope Document	Time and Labor/ Absence Mgt	Upon Acceptance	ea	1	\$109,841	\$109,841
O1.2 Project Team Kickoff	Hyperion	Upon Acceptance	ea	1	\$108,020	\$108,020
F3.5 Build 1 / Design / Review	Hyperion	Upon Acceptance	ea	1	\$108,020	\$108,020
F3.6 Build 2 / Design / Review	Hyperion	Upon Acceptance	ea	1	\$108,020	\$108,020
D5.1 Execute Deployment Plan	Hyperion	Upon Acceptance	ea	1	\$108,020	**\$108,020
F2.2 Fit/Gap Analysis Document	Recruiting	Upon Acceptance	ea	1	\$30,078	\$30,078
P5.1a Early release of 50% retainage in consideration of completed punch list items (Tables 1-3 of Addendum #8 to Exhibit 1)	All	Upon Execution of CO #11	ea	1	\$100,000	\$100,000
P5.1b Final Acceptance	All	Upon Acceptance	ea	1	\$100,000	\$100,000
Change Order #1 – Affordable Care Act	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$45,000	\$45,000
Change Order #2 – TCFE Replacement	Time and Labor/ Absence Mgt	Upon Acceptance	ea	1	*\$92,500	*\$92,500
Change Order #3 – Increase Taleo Subscriptions	Embedded in Recruiting SaaS Fees – Years 1 - 6 below					
Change Order #4 – Time and Labor Overtime Validation Rules	Time and Labor/Absence Mgt	Upon Acceptance	ea	1	*\$109,150	*\$109,150
Change Order #5 – Time and Labor REG2 Validation Rules	Time and Labor/Absence Mgt	Upon Acceptance	ea	1	*\$33,300	*\$33,300
Change Order #6 – GASB	Payroll	Upon Acceptance	ea	1	*\$29,600	*\$29,600
Change Order #7 – Payment Schedule Adjustment (Effective June 1, 2016)	Zero Dollar Change Order					
Change Order #8:						
1. Defer/add services to Stabilization Phase	All	N/A	ea	1	\$0	\$0
2. PeopleSoft to Taleo Integration	Taleo	Upon Acceptance	ea	1	\$65,000	\$65,000
3. Post implementation support	All	Progress Payments	ea	1	\$192,030	N/A
4. PeopleSoft reporting tools knowledge transfer postponement	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$13,200	\$13,200
5. Hyperion go-live delay and additional development/implementation	Hyperion	Progress Payments	ea	1	\$125,000	N/A
6. ACA solution	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$18,400	\$18,400
7. Kaiser integration for arbitration notification	PeopleSoft Upgrade	Upon Acceptance	ea	1	\$13,800	\$13,800
Change Order #9 – Managed Services/Managed 2nd Router	Included in Hosting Fees – See below					
Change Order #10:						
1. Delete Deliverable #4 from CO #8 for PeopleSoft reporting tools knowledge transfer	PeopleSoft Upgrade	N/A	ea	1	\$-13,200	\$-13,200
2. Hyperion post implementation support	Hyperion	Progress Payments	ea	1	***\$224,000	N/A
Total Not-to-Exceed, Milestone Payments						\$1,836,639

Payment Deliverable	Project Area	Invoicing Frequency	UOM	Frequency	Unit Cost	Extended Cost
Project Management	All	Monthly	Month	15	\$55,743	\$836,145
Travel Expenses	All	Monthly	Monthly	15	\$27,319	\$409,785
					Subtotal	\$1,245,930
Taleo Subscriptions:						
Recruiting SaaS Fees - Year 1 (2/15/16 – 2/14/17) – 7,400 employees	Recruiting	Annual	Annual	1	\$107,512	\$107,512
Recruiting SaaS Fees - Year 2 (2/15/17 – 2/14/18) – 7,400 employees	Recruiting	Annual	Annual	1	\$107,512	\$107,512
Recruiting SaaS Fees - Year 3 (2/15/18 – 2/14/19) – 7,700 employees	Recruiting	Annual	Annual	1	\$111,871	\$111,871
Recruiting SaaS Fees - Year 4 (2/15/19 – 2/14/20) – 7,732 employees	Recruiting	Annual	Annual	1	\$115,705	\$115,705
Recruiting SaaS Fees - Year 5 (2/15/20 – 2/14/21) – 7,700 employees	Recruiting	Annual	Annual	1	\$119,836	\$119,836
Recruiting SaaS Fees - Year 6 (2/15/21 – 2/14/22) – 7,171 employees	Recruiting	Annual	Annual	1	\$118,749	\$118,749
Total, Recruiting SaaS Fees Through 2/14/2022					Subtotal	\$681,185
PeopleSoft and Hyperion environment:						
Hosting - Month 1	Hosting	Monthly	Monthly	1	\$20,001	\$20,001
Hosting - Months 2 – 12	Hosting	Monthly	Monthly	11	\$20,000	\$220,000
Hosting - Month 13 – 72	Hosting	Monthly	Monthly	60	\$35,000	\$2,100,000
Hosting - Month 73 – 78 – Added this First Amendment	Hosting	Monthly	Monthly	6	\$35,000	\$210,000
Managed Services – Added CO #9:						
Managed Services – Months 19 -30	Hosting	Monthly	Monthly	12	\$16,500	\$198,000
Managed Services – Months 31 -42	Hosting	Monthly	Monthly	12	\$16,995	\$203,940
Managed Services – Months 43-54	Hosting	Monthly	Monthly	12	\$17,504	\$210,048
Managed Services – Months 55-66	Hosting	Monthly	Monthly	12	\$18,030	\$216,360
Managed Services – Months 67-72	Hosting	Monthly	Monthly	6	\$18,573	\$111,438
Managed Services - Months 73-78 – Added this First Amendment	Hosting	Monthly	Hourly	900	\$130	\$117,000
Managed 2nd Router – Added CO #9:						
Managed 2 nd Router – Months 19-72	Hosting	Monthly	Monthly	54	\$500	\$27,000
Managed 2nd Router – Months 73 -78 – Added this First Amendment	Hosting	Monthly	Monthly	6	\$500	\$3,000
Total, Hosting, Managed Services, & 2nd Router Fees Through 12/31/2021					Subtotal	\$3,636,787
June 2016 Progress Payment	All	June	Monthly	1	\$511,830	\$511,830
July 2016 Progress Payment	All	July	Monthly	1	\$450,000	\$450,000
August 2016 Progress Payment	All	August	Monthly	1	\$101,340	\$101,340
October 2016 Progress Payment (CO #8)	All	October	Monthly	1	\$62,500	\$62,500
November 2016 Progress Payment (CO #8)	All	November	Monthly	1	\$158,515	\$158,515
December 2016 Progress Payment (CO #8)	All	December	Monthly	1	\$96,015	\$96,015
February 2017 Progress Payment (CO #10)	All	February	Monthly	1	***\$64,000	***\$64,000
March 2017 Progress Payment (CO #10)	All	March	Monthly	1	\$64,000	\$64,000
April 2017 Progress Payment (CO #10)	All	April	Monthly	1	\$32,000	\$32,000
May 2017 Progress Payment (CO #10)	All	May	Monthly	1	\$32,000	\$32,000
June 2017 Progress Payment (CO #10)	All	June	Monthly	1	\$32,000	\$32,000
Total, Progress Payments					Subtotal	\$1,604,200
PROJECT GRAND TOTAL						\$9,004,741

*Time & Materials, Not-to-Exceed Amount

**This will be paid in December invoice if attached list of Hyperion deliverables (See Addendum #7 to Exhibit 1, Tables 1-3) is substantially completed, as mutually agreed by the City and Contractor, by the end of December 2017. Otherwise, it will be paid in the monthly invoice in which the list is substantially complete.

*** This represents 2 FTEs for February and March 2017 and 1 FTE for April, May, and June 2017. If the attached list of Hyperion deliverables (See Tables 1-3 of Addendum #7 to Exhibit 1) is not substantially complete, as mutually agreed by the City and Contractor, by the end of December 2016, the total amount to be paid for the February progress payment will be reduced by \$32,000.

Resource Rate Card

Hourly Rate Card for Additional Work		
Role	Onsite	Offsite
Program Manager	\$ 200.00	\$ 170.00
Project Manager	\$ 185.00	\$ 155.00
PeopleSoft Functional Lead	\$ 185.00	\$ 155.00
PeopleSoft Functional Consultant	\$ 165.00	\$ 135.00
Hyperion Lead	\$ 200.00	\$ 170.00
Hyperion Consultant	\$ 180.00	\$ 150.00
Technical Lead	\$ 185.00	\$ 155.00
Technical Consultant	\$ 165.00	\$ 135.00
Technical Developer	N/A	\$ 115.00
DBA/Sys Admin	\$ 155.00	\$ 125.00
Upgrade Specialist	\$ 155.00	\$ 125.00
OCM Lead	\$ 185.00	\$ 155.00
OCM Consultant	\$ 165.00	\$ 135.00
Trainer	\$ 160.00	\$ 135.00

Managed Services (Months 19-72) through 6/30/2021

Optional Managed Services	One-time Cost	Year 1	Year 2	Year 3	Year 4	Year 5
150 hours of managed services per month	\$0	\$198,000	\$203,940	\$210,048	\$216,360	\$111,438
Rate per hour if 150 base hours are exceeded	\$0	\$125	\$128	\$132	\$136	\$140
PeopleSoft Upgrade (1 during 5-year period)	\$0	\$0	\$0	\$0	\$0	\$0
Hyperion Upgrade (1 during 5-year period). Only Applicable If SaaS Model is not utilized.	\$150,000	\$0	\$0	\$0	\$0	\$0

150 Hours of Managed Services per Month
CherryRoad will provide up to 150 hours of support for Technical and Functional support resources during any one (1) month period. At the end of each month, all unused services up to a maximum of 37.5 hours will be rolled into the next month.
Rate per Hour if 150 Base Hours are Exceeded
In the event 150 hours are exceeded in any one month, the hourly rates listed above will apply for all hours above the base monthly allocation.
PeopleSoft Upgrade (1 During 5-Year Period)
Oracle's goal is to deliver all new future capabilities on PeopleSoft 9.2 and not deliver a PeopleSoft 9.3. In this scenario, enhanced and new functionality will be delivered through the Managed Service contract and PUM as needed. In the event Oracle releases a PeopleSoft 9.3 application within the first five years of this engagement, CherryRoad is prepared to stand behind our original proposed HCM technical upgrade pricing of \$715,740.00.

Managed Services (Months 73-78) 7/1/2021 – 12/31/2021 – Added this First Amendment

Managed services shall be provided at an hourly rate of \$130/hour upon request by the City. Managed services shall be for Functional and Technical Tasks as designated by the City in compliance with Addendum #6 to Exhibit 1, Statement of Work, included in CO #9. Contractor shall invoice the City monthly in arrears for any managed service hours provided during the previous month. The City shall provide Contractor at least 30 days' notice in the event the City expects to require significantly more than 80 hours of managed services in any given month.

Managed Services	Hourly Rate	Estimated Monthly Hours	Total Not to Exceed
7/1/21 – 12/31/21	\$130	150	\$117,000

Contractor shall additionally provide 450 hours of unused managed services paid previously by the City for use by the City upon request.

Hosting Services Rate Card

The following reference guide is used for pricing out optional services. These figures may be subject to change to the extent they are based on third party vendor quotes and unique client requirements.

Item#	Component	Pricing and Notes	
	Infrastructure		
1	Linux Virtual Machine	\$79.00	Includes 1 vCPU, 4GB RAM, 100GB storage
2	Windows Virtual Machine	\$95.00	Includes 1 vCPU, 4GB RAM, 100GB storage
3	Oracle DB Instance on Exadata	\$2200.00	Includes DBEE and RAC. 1 CPU, 4 GB RAM, 100GB storage
4	Additional Virtual Server Processor (vCPU) for Linux.	\$45.00	Per month; per 1 vCPU
5	Additional Virtual Server Processor (vCPU) for Windows.	\$60.00	Per month; per 1 vCPU
6	Additional Processor (CPU) for Oracle DB instance.	\$2200.00	Per month; per 1 CPU
7	Additional Virtual Server Memory (RAM)	\$20.00	Per month; per 1 GB RAM
8	Additional Oracle DB Memory (RAM)	\$35.00	Per month; per 1 GB RAM
9	Managed MPLS Circuit	\$3,000.00	Per month; 10Mbps MPLS circuit. CherryRoad will provide a managed router and fully manage the solution.
10	Site to Site VPN to CRT data centers	\$350.00	Per month (5Mbps); excludes dedicated equipment
11	Site to Site VPN - bandwidth increase	\$60.00	Per 1Mbps per month
12	Onsite DR/Backup appliance with replication services to CherryRoad Data center.	\$500.00	Per TB per month. Excludes backup software (4TB minimum).
13	Backup Services	\$495.00	Per TB per month. Excludes setup cost.
14	Additional Non-Production PeopleSoft Environment	\$3,350.00	Per month, includes 1 app/web/batch server 8GB RAM; 400 GB app/file storage; 300 GB Exadata storage on non-Prod; up to 10 named users; up to 1 refresh per month included; no DR.
15	Additional Non-Production PeopleSoft Environment Users	\$125.00	Each additional named user.
16	Non-Production PeopleSoft Environment refresh	\$1,450.00	Perform periodic refresh of non-production instance with production data - above the monthly allocation in the contract; up to 2 refreshes per month.
17	Non-Production PeopleSoft Environment (i.e. Training) treated like Production	\$7,000.00	Per month;
18	Storage - File/App	\$200.00	Per 100 GB per month
19	Storage - Non-Production database	\$350.00	Per 100 GB per month
20	Terminal Services	\$25.00	Additional terminal services per user per month
21	VPN Hardware for customer site.	\$100	Per month; Redundant Pair.
	Tools (In-House, 3rd Party)		
22	Advanced Web Monitoring	\$30.00	Per month; Per web environment.
23	SecureAuth - One-time setup fee	\$5,000.00	Initial environment setup. \$3k for each additional.
24	SecureAuth – User	\$2.00	Per user per month.
25	Soasta (performance testing tool) - initial setup at client site	\$3,000.00	Installed at our MS client sites.
26	Soasta (performance testing tool)	\$3,600.00	Weekly cost; excludes script writing.
27	ServiceNow	\$99.00	Per month. Per additional process user.

First Option Term Pricing (January 1, 2022 – December 31, 2024) – Added this First Amendment

Service Description	Invoicing Frequency	Rate	Unit	Estimated Quantity	Total Not to Exceed
Hosting	Monthly	\$35,000	Month	36	\$1,260,000
Managed Services*	Monthly	\$130	Hour	4,000	520,000
Managed 2 nd Router	Monthly	\$500	Month	36	18,000
Total Not to Exceed					\$1,798,000

*Contractor shall invoice the City for Managed Services monthly in arrears for actual hours provided during the preceding month. City shall provide Contractor at least 30 days' notice in the event the City expects to require significantly more than 80 hours of managed services in any given month.

EXHIBIT 7
NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT

AGREEMENT TITLE:	
CONTRACTOR Name and Address:	
DATE:	

Pursuant to Section ____ of the Agreement referenced above, the City of San José hereby exercises its option to extend the term under the following provisions:

OPTION NO.	
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OPTION TERM

Begin date:	
End date:	

☐ **CHANGES IN RATE OF COMPENSATION**

Percentage change in CPI upon which adjustment is based:	
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Pursuant to Section ____ of the Agreement the Rates of Compensation are hereby adjusted as follows:
(use attachment if necessary)

MAXIMUM COMPENSATION for Option Term:	
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For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the maximum compensation set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of San José hereby certifies that an unexpended appropriation and funds are available for the option term specified above.

CITY OF SAN JOSE a municipal corporation By _____ Name: _____ Title: _____ Date: _____
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