

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

March 15, 2022

FROM

LARRY AINSWORTH, Chief Information Officer, Innovation and Technology Department

SUBJECT

Amendment to Master Service Agreement with Oracle America, Inc. for Software Licenses

RECOMMENDATION(S)

1. Approve **Amendment No. 4 to Master Service Agreement No. 14-800** with Oracle America, Inc. to add Oracle Technology Network License Agreement for Business Operations with no change to the total not-to-exceed amount of \$5,000,000, effective March 15, 2022, with no change to the total period of October 1, 2014 through September 30, 2024.
2. Authorize the Chief Information Officer, or Enterprise Business Applications Manager to electronically accept licenses under the Oracle Technology License Agreement for Business Operations for purchases within the limits set by County Policy, subject to review by County Counsel.
3. Authorize the Purchasing Agent to electronically accept the Oracle Technology License Agreement for Business Operations for purchases within the limits set by County Policy, subject to review by County Counsel.

(Presenter: Larry Ainsworth, Chief Information Officer, 388-5501)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). There is no increase to the not-to-exceed amount of \$5,000,000 associated with this Amendment. The cost associated with this Agreement is included in the Innovation and Technology Department (ITD) Computer Operations 2021-22 budget and will be included in future recommended budgets. Operating costs are recovered via service rates approved annually by the Board of Supervisors (Board).

BACKGROUND INFORMATION

ITD maintains the Employee Management and Compensation System (EMACS), Geographic Information System applications, tape libraries and tape drives housed in the ITD data center and the disaster recovery center, all of which utilize Oracle America, Inc. (Oracle) tools and products.

On September 23, 2014 (Item No. 25), the Board approved Oracle Master Service Agreement (OMSA) No. 14-800 with Oracle for proprietary software and hardware support and maintenance from October 1, 2014 through September 30, 2019, in the amount of \$3,623,643, and also approved non-financial Amendment No. 1 to the OMSA to update terms and conditions.

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On September 10, 2019 (Item No. 31), the Board approved Amendment No. 2 to renew the OMSA for the five-year-period of October 1, 2019 through September 30, 2024, and increased the contract amount to a not-to-exceed amount of \$5,000,000 to allow the County to continue to receive necessary software and hardware support services for a variety of Oracle proprietary products that are critical to County operations.

On December 7, 2021 (Item No. 25), the Board approved Amendment No. 3 to the OMSA to add Oracle University Terms & Policies for enrollment in training courses with no change to the total not-to-exceed amount of \$5,000,000 for the period of February 1, 2022 through September 30, 2024.

Approval of Amendment No. 4 will add the Oracle Technology Network License Agreement for Business Operations as an attachment to the OMSA. These terms govern the use of various open-source software licenses and tools which can be utilized by the County, including a SQL database tool that provides a utility for reviewing and modifying the data in the EMACS database to accommodate new requirements such as adjustments in salary schedules and other mandated requirements.

The Oracle Technology Network License Agreement for Business Operations is its standard commercial contract, which includes terms that differ from the standard County contract and from the OMSA as follows:

Oracle's entire liability for damages under the Oracle Technology Network License Agreement for Business Operations will not exceed \$1,000.

- The County standard contract does not include a limitation of liability.
- Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess. In addition, the County's liability under the Agreement is not similarly limited.

ITD recommends approval of the Oracle Technology Network License Agreement for Business Operations, including the non-standard terms, to allow ITD to continue to utilize open-source software licenses and tools associated with this Agreement. The designation of the Chief Information Officer or Enterprise Business Applications Manager as the authority to electronically accept licenses under the Oracle Technology Network License Agreement for Business Operations for ITD, subject to review by County Counsel, is necessary as they represent the assigned staff with access to download, install, and accept the software licensing terms.

PROCUREMENT

There is no procurement action related to this Amendment. The terms will be used to accompany future purchases to be approved, as necessary, per County Policy 11-04 Procurement of Goods, Supplies, Equipment and Services.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, Deputy County Counsel, 387-5455) on February 11, 2022; Purchasing (Tevan Stremel, Buyer III, 387-2092) on February 14, 2022; Risk Management (Victor Tordesillas, Director, 386-8623) on February 17, 2022; Finance (Sofia Almeida, Administrative Analyst, 387-4378) on February 28, 2022; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on February 28, 2022.

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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Janice Rutherford Seconded: Joe Baca, Jr.

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 15, 2022



cc: IT- Lewis w/agree
Contractor - C/O IT w/agree
File - w/agree
CCM 03/17/2022