

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



ITEM  
3.25  
(ID # 10206)

MEETING DATE:

Tuesday, June 25, 2019

FROM : HUMAN RESOURCES AND RIVERSIDE COUNTY INFORMATION TECHNOLOGY :

SUBJECT: HUMAN RESOURCES AND RIVERSIDE COUNTY INFORMATION TECHNOLOGY: Approve and Execute the Agreement with CherryRoad Technology, Inc., for the Upgrade (\$2,096,520) and Support Services (\$4,700,00) of the PeopleSoft Human Capital Management System over 5 years, effective July 1, 2019 through June 30, 2024, All Districts. [\$6,796,520 Total Cost - 100% RCIT Budget]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Agreement with CherryRoad Technology, Inc., to upgrade the PeopleSoft Human Capital Management System to version 9.2 (\$2,096,520) and provide support services (\$4,700,000) from July 1, 2019 through June 30, 2024, for the total aggregate amount of \$6,796,520, and authorize the Chairman of the Board to sign three (3) copies of the Agreement on behalf of the County;
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved by County Counsel, to 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
3. Direct the Clerk of the Board to retain one (1) copy of the Agreement and return two (2) copies of the Agreement to the Information Technology Department for distribution.

ACTION: Policy

  
Brenda Diederichs, Assistant CEO / Human Resources Director

6/18/2019

  
Dave Rogers, Chief Information Officer

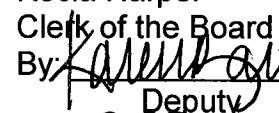
6/18/2019

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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: June 25, 2019  
xc: H.R., RCIT, Purchasing

Kecia Harper  
Clerk of the Board  
By:   
Deputy

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

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 2,796,520	\$ 6,796,520	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> 100% RCIT Budget			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	19/20 – 23/24

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The County of Riverside has been running on various versions of the PeopleSoft Human Resource Management System (HRMS) since 2001. The current version of the HRMS system used by the County is PeopleSoft version 9.0. This version has been in use supporting Human Resources activities since January 2009 and is two versions behind what is currently supported by PeopleSoft. The new version 9.2 is referred to by Oracle as their PeopleSoft Human Capital Management (HCM) system.

The most current version available from Oracle is PeopleSoft HCM v9.2. This new version is a significant upgrade and will provide the County of Riverside with an enhanced graphical user interface (GUI), single sign-on to Active Directory, innovative self-service features, a mobile application for time entry and other common end user functions, a simple method for future upgrades through PeopleSoft Upgrade Manager (PUM), and much more.

In addition to the upgrade, the County of Riverside requires ongoing technical and application support for the PeopleSoft HCM system. This support package includes both technical support (reactive) and application support (proactive) for the entire HCM system. This support is critical to maintaining operations, maximizing uptime, securing the system from malware attacks, and insuring that Human Resources activities continue to function consistently across the organization.

**Impact on Citizens and Businesses**

There is no impact on residents or businesses within the County of Riverside.

**SUPPLEMENTAL:**

**Additional Fiscal Information**

Description:	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	Total
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**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**


<b>One-time Costs:</b>						
Upgrade Peoplesoft HCM v9.2	\$2,096,520	\$ 0	\$ 0	\$ 0	\$ 0	\$2,096,520
<b>Ongoing Costs:</b>						
CherryRoad Application Support		\$ 300,000	\$200,000	\$ 200,000	\$ 200,000	\$ 900,000
Oracle Technical Support	\$ 700,000	\$ 725,000	\$750,000	\$ 800,000	\$ 825,000	\$3,800,000
<b>Total Costs</b>	<b>\$2,796,520</b>	<b>\$1,025,000</b>	<b>\$950,000</b>	<b>\$1,000,000</b>	<b>\$1,025,000</b>	<b>\$6,796,520</b>

**Contract History and Price Reasonableness**

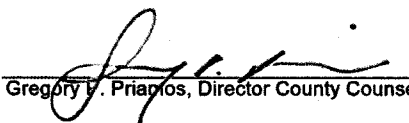
The Riverside County Information Technology Department has negotiated with CherryRoad to perform the PeopleSoft HCM upgrade to version 9.2 and provide 5 years of application and technical support to the County of Riverside. The contract and Scope of Service were negotiated off of the City of San Jose contract that was competitively bid for a project of similar scope of work and services. By doing so, the County saves a significant amount of time and effort if we were to pursue our own Request for Proposal (RFP).

**ATTACHMENTS:**

1. Agreement with CherryRoad Technology, Inc.

  
Teresa Summers, Director of Purchasing 6/18/2019

  
Venus Brambila 6/20/2019

  
Gregory L. Priaplos, Director County Counsel 6/19/2019

**PEOPLESOFT HUMAN CAPITAL MANAGEMENT UPGRADE to v9.2 and ORACLE  
SUPPORT SERVICE AGREEMENT**

**between**

**COUNTY OF RIVERSIDE**

**and**

**CHERRYROAD TECHNOLOGIES INC.**



JUN 25 2019 3.25

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This Agreement made and entered into this 25<sup>th</sup> day of June 2019, by and between CherryRoad Technologies Inc., a Florida corporation authorized to conduct business in the State of California, (hereinafter referred to as "CherryRoad" or "CONTRACTOR"), and the County of Riverside, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

**1. Description of Services**

**1.1** CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, at the prices stated in Exhibit B, Payment Provisions, and Attachment I, HIPAA Business Associate Attachment to the Agreement.

**1.2** CONTRACTOR represents that it has the skills, experience, and knowledge necessary to perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

**1.3** CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement without the written consent of the COUNTY.

**1.4** Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

**2. Period of Performance**

**2.1** This Agreement shall be effective from July 1, 2019 through June 30, 2024, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter. The Riverside County Board of Supervisors is the only authority that may obligate the County for a non-cancelable multi-year agreement.

**3. Compensation**

**3.1** The COUNTY shall pay the CONTRACTOR for services performed, products provided, and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed six million seven hundred ninety-six thousand five hundred twenty dollars (\$6,796,520) under this Agreement, including all expenses. The total amount is comprised of PeopleSoft HR System Upgrade for \$2,096,520, Oracle Application Support for \$3,800,000, and CherryRoad Professional Services Support for \$900,000. The COUNTY is

not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

**3.2** No price increases will be permitted during the first year of this Agreement (If applicable). The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

**3.3** CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Riverside County Information Technology  
Attn: Account Payable  
3450 14<sup>th</sup> Street  
Riverside, CA 92501

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number (PSA-0001185); quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.
- b) Invoices shall be rendered monthly in arrears.

**3.4** The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made, and invoices shall be rendered "monthly" in arrears. In the State of California, Government agencies are not allowed to pay excess interest and late charges, per Government Codes, Section 926.10. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar

year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

**4. Alteration or Changes to the Agreement**

**4.1** The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

**4.2** Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim.

**5. Termination**

**5.1.** COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.2**

In the event of a material breach, COUNTY may provide CONTRACTOR with written notice of the material breach, with such sufficient detail so CONTRACTOR can readily understand the claim for material breach. CONTRACTOR shall have ten (10) days from the date of its receipt of such notification to cure such material breach. If the material breach is not cured within that time period, the COUNTY may terminate this Agreement immediately. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

**5.3** CONTRACTOR may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

**5.4** After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.



5.5 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement.

5.6 CONTRACTOR's rights to payment under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.7 If the Agreement is federally or State funded, CONTRACTOR cannot be debarred from the System for Award Management (SAM). CONTRACTOR must notify the COUNTY immediately of a debarment. Reference: System for Award Management (SAM) at <https://www.sam.gov> for Central Contractor Registry (CCR), Federal Agency Registration (Fedreg), Online Representations and Certifications Application, and Excluded Parties List System (EPLS)). Excluded Parties Listing System (EPLS) (<http://www.epls.gov>) (Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17). The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS.

5.8 The rights and remedies provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

**6. Ownership/Use of Contract Materials and Products**

6.1 The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY. The material, reports or products may be used by the COUNTY for any purpose that the COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports, or products without prior written authorization of the COUNTY.

6.2 Notwithstanding the foregoing, CONTRACTOR shall retain ownership of all knowledge, techniques, procedures, routines, templates and methods which have been developed by CONTRACTOR in its regular course of business and not for specific use in performance of this Contract, and used in the provision of services ("Contractor Tools"). CONTRACTOR shall grant the COUNTY, upon full payment, a perpetual, irrevocable, non-assignable, non-exclusive license to all Contractor Tools that CONTRACTOR embeds in or provides with any work product or that are otherwise used in connection with the services.

**7. Conduct of Contractor**

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

**8. Inspection of Service; Quality Control/Assurance**

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection and test by the COUNTY or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement, the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY provided that the nonconformance is not a result of: i) any defects in the software; ii) any inappropriate or improper usage of the work or services by the COUNTY, unless such actions are taken at the direction of CONTRACTOR; or iii) any circumstance not within the reasonable control of CONTRACTOR. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected; the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement

pursuant to section 5.2 and charge to CONTRACTOR any reasonable costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

**8.2** CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

**9. Independent Contractor/Employment Eligibility**

**9.1** The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents, and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

**9.2** CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

**9.3** Ineligible Person shall be any individual or entity who: Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

**9.4** CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services directly relative to this Agreement. CONTRACTOR shall screen all current Covered Individuals within sixty (60) days of execution of this Agreement to ensure that they have not become Ineligible Persons unless CONTRACTOR has performed such screening on same Covered Individuals under a separate agreement with COUNTY within the past six (6) months. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify COUNTY within five (5) business days after it becomes aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded or otherwise becomes an Ineligible Person.

**9.5** CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.

**9.6** CONTRACTOR shall notify COUNTY within five (5) business days if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. Such individual or entity shall be promptly removed from participating in any activity associated with this Agreement.

**10. Subcontract for Work or Services**

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY, which approval shall not be unreasonably withheld; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

**11. Disputes**

**11.1** The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. If either party is dissatisfied with the decision, that party may pursue all legal rights and remedies in a court of competent

jurisdiction. If practical, the CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

**11.2** Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

**12. Licensing and Permits**

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

**13. Use By Other Political Entities**

The CONTRACTOR agrees to extend the same pricing, terms, and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

**14. Non-Discrimination**

CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et seq.) and all other applicable laws or regulations.

**15. Records and Documents**

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State, or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All

such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

**16. Confidentiality**

**16.1** The parties shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

**16.2** The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, or required by law, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

**16.3** If either party is confronted with legal action or believes applicable law requires it to disclose any portion of the other party's privileged or confidential information protected hereunder, that party shall promptly notify and assist the other (at the other party's expense) in obtaining a protective order or other similar order, and shall thereafter disclose only the minimum of the other party's privileged or confidential information that is required to be disclosed in order to comply with the legal action, whether or not a protective order or other order has been obtained.

**16.4** The CONTRACTOR is subject to and shall operate in compliance with all relevant requirements contained in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, enacted August 21, 1996, and the related laws and regulations promulgated subsequent thereto. Please refer to Attachment 1 of this agreement.

**17. Administration/Contract Liaison**

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

**18. Notices**

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

**COUNTY OF RIVERSIDE**

Riverside County Information Technology  
Attn: Procurement Contract Specialist  
3450 14<sup>th</sup> Street  
Riverside, CA 92501

**CONTRACTOR**

CherryRoad Technologies, Inc.  
Attn: Barbara Robinson  
301 Gibraltar Drive, Suite 2C  
Morris Plains, NJ 07950

**19. Force Majeure**

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

Upon receipt of notice of failure or delay in performance caused by the foregoing, performance time shall be considered extended for a period of time equivalent to the time lost as a result of any such delay.

If either party is unable to continue to perform for a period of thirty (30) calendar days from the date such notice was issued, then either party may terminate this Agreement.

**20. EDD Reporting Requirements**

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529.

CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at [www.edd.ca.gov](http://www.edd.ca.gov).

**21. Hold Harmless/Indemnification**

**21.1** CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend the Indemnitees at its sole expense including all costs and fees (including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services.

**21.2** With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR indemnification to Indemnitees as set forth herein. COUNTY shall fully cooperate with CONTRACTOR in the course of any such defense, including, without cost, providing resources, information and individuals deemed reasonably necessary by CONTRACTOR to effectively defend any such action.

**21.3** CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

**21.4** The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

**22. Insurance**

**22.1** Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As



respects to the insurance section only, the 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.

**A. Workers' Compensation:**

If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' 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.

**B. Commercial General Liability:**

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'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.

**C. Vehicle Liability:**

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then CONTRACTOR 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 the COUNTY as Additional Insureds.

**D. General Insurance Provisions - All lines:**

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M 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.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention 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 the

COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 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) days written notice shall be given to the County of Riverside 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 of Riverside 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 coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR 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 shall sign the original endorsements for each policy and the Certificate of Insurance.

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) 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; 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 and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

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

8) CONTRACTOR 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.

**23. General**

**23.1** CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

**23.2** Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full, and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

**23.3** In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

**23.4** CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

**23.5** CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims, or encumbrances.

**23.6** Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

**23.7** The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

**23.8** CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

**23.9** CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

**23.10** CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

**23.11** This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Federal Court or Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**23.12** This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.


**23.13** Except for CONTRACTOR's indemnification obligations as stated in this Agreement, CONTRACTOR's total liability to the COUNTY for direct damages shall be limited to three times (3X) the aggregate of fees paid or to be paid under this Agreement. In no event shall either party be responsible for any special, indirect, consequential, incidental, exemplary, or punitive damages of any kind or nature arising out of or related to this Agreement.

**23.14 ASIDE FROM THE WARRANTIES EXPRESSLY CONTAINED IN THIS AGREEMENT, CONTRACTOR AFFIRMATIVELY EXCLUDES ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE SERVICES PROVIDED INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT THE**

**CONTRACTOR KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE) WHETHER ARISING BY LAW OR BY REASON OF CUSTOM OF THE TRADE.**


IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement.

**COUNTY OF RIVERSIDE**, a political  
subdivision of the State of California

By:   
Kevin Jeffries, Chairman  
Board of Supervisors

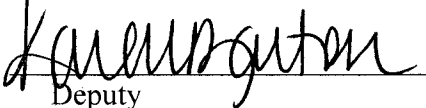
Dated: JUN 25 2019

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

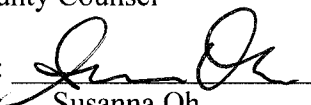
By:   
Nicholas Visco, Chief Financial Officer

Dated: 6/19/2019

ATTEST:  
Kecia Harper  
Clerk of the Board

By:   
Deputy

APPROVED AS TO FORM:  
Gregory P. Priamos  
County Counsel

By:   
Susanna Oh,  
Deputy County Counsel

**Exhibit A**  
**Scope of Service**

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## **1.0 Executive Summary**

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### **1.1 Executive Summary**

The County of Riverside, California ("County") seeks to enhance its current Human Capital Management ("HCM") functionality through the upgrading of the application to the most current version 9.2 of PeopleSoft. Additionally, the County is seeking to re-establish Oracle Support for PeopleSoft which CherryRoad has included in this proposal.

To upgrade to the new platform, CherryRoad will follow our Upgrade Methodology which includes a five-stage, deliverable-based methodology structured in accordance with project management best practices. Each upgrade task rolls up to a summary task or work package and each series of work packages forms a deliverable. This disciplined approach is translated easily into a well-organized project schedule and work breakdown structure.

The estimated duration of the project is approximately fifty-two (52) weeks to go-live followed by four (4) weeks of deployment and post-production support. In addition to the project timeframe, CherryRoad will provide the County with CherryRoad Professional Services Support and Oracle Application Support. The work conducted by CherryRoad will be accomplished by using a hybrid approach of on-site and off-site resources. This approach calls for the majority of the technical work to be done off-site, while providing on-site support at key times throughout the life cycle of the project.

Throughout the duration of this initiative, the County will provide the following resources to ensure the success of the project (but not limited to);

- County Lead; dedicated 100%
- Functional Resources (Subject matter expertise); dedicated 20-60%
  - Talent Acquisition Management
  - Human Resources
  - Benefits Administration
  - Time and Labor
  - Payroll
- Fit/Gap Lead; dedicated 100%
- Usability/Reporting Lead; dedicated 100%
- Business Process and Technical Steering Committee; dedicated 5-10%

County resources responsibilities will include (but not limited to);

- Meet with CherryRoad Project Team consultants
- Governance for all platform mandated business process changes
- Provide business rules and processes to consultants
- Aid in development and configuration of PeopleSoft to meet County business rules and/or modify business rules as required
- Provide input and aid in development of PeopleSoft modules through user scenarios
- Execute User Acceptance Test scenarios

This Statement of Work is based upon CherryRoad's understanding of County's requirements at this time.

## 2.0 PeopleSoft Upgrade Project Scope

### 2.1 Scope Overview

CherryRoad will provide the County with the PeopleSoft architectural, technical, functional and project management expertise required to deploy a v9.2 platform to the Production environment. The specific scope will include in addition to the application upgrade the implementation of the following:

- New features of Talent Acquisition Manager (TAM)
- eBenefits for benefit mid-year and Open Enrollment
- eProfile and eProfile Manager Desktop (personnel changes)
- ePay (employee payroll updates)
- eCompensation (mass payroll updates and Salary Schedule for compensation changes)
- PeopleSoft Analytics
- Single Sign On
- Exception Reporting
- Fluid User Interface
- Absence Management

CherryRoad will work with the County to conduct a Fit/Gap at the beginning of the project. That Fit/Gap will include the evaluation of new functionality. At the end of the Fit/Gap, the CherryRoad Project Manager will work with the County's project manager to prioritize implementing new functionality within the given timeframe and staffing. The new functionality, including the bullet points above will be deployed within the upgrade and/or during the application support timeframe for the costs in this Statement of Work.

The approach will include following the Oracle standard upgrade methodology through the execution of multiple upgrade test moves which include the Initial Pass, Move to Production – Test Pass 1, Move to Production – Test Pass 2 and final deployment to the Production environment. Within the application upgrade a PeopleTools upgrade will also be executed from version 8.53.xx to 8.57.xx on the Human Capital Management application suite.

	Current Application Suite	Upgraded Application Suite
<b>Suite Purpose/Title</b>	PeopleSoft Human Capital Management	PeopleSoft Human Capital Management
<b>Application Release</b>	9.0	9.2 Plxx
<b>People Tools Release</b>	8.53.xx	8.57.xx (or most current)

Note: Plxx- represents the most current PUM image available at the time of the start of the project.

CherryRoad will work with the County to provide a platform foundation that will provide the opportunity to take advantage of new functionality and streamlined business processes. CherryRoad is proposing a functional team of resources to test the modifications and provide knowledge transfer. Testing and knowledge transfer are two of the most important tasks of a PeopleSoft upgrade. The County will have the benefit of skilled resources who are familiar with v9.2, to ensure best and most efficient testing results while completing knowledge transfer.

- **PeopleSoft Platform Upgrade** to PeopleTools 8.57.xx and application v9.2. This will include the upgrade of non-production environments using Oracle's delivered scripts and final deployment to the Production environment. CherryRoad will provide one Upgrade Specialist augmented by infrastructure and PS Admin/Database resources.
- **Project Management** to create and monitor a comprehensive project plan. Identify report and manage risks to the project and weekly status reports in cooperation with the County project manager/lead.
- **Technical SME(s)** to retrofit and develop customizations and enhancements, establish single sign-on (where applicable) while supporting the new v9.2 configurations.
- **Functional SME(s)** CherryRoad is proposing a functional team of resources to configure new functionality and test the modifications and while providing knowledge transfer. Testing and knowledge transfer are two of the most important tasks of a PeopleSoft upgrade. The County will have the benefit of skilled resources who are familiar with v9.2, to ensure best and most efficient testing results while completing knowledge transfer.

As the County moves from upgrade to post-production support of the 9.2 environment it is critical to have the appropriate support model established. CherryRoad has included options for the County to utilize our established Managed Services Help Desk procedures.

Essentially, ongoing support is broken down into three types of services:

- Incident-based support
- Request-based support
- Update Management for PeopleSoft

All three services are supported by CherryRoad's Intellicenter, driven through our ServiceNow ITSM system, and administered by our Service Delivery Manager. The County will have a Service Delivery Manager assigned to them who will manage all requests.

### *The CherryRoad Intellicenter and ServiceNow*

A key component to meeting the County's support requirements is ensuring issues or incidents are properly recorded, managed, and resolved. CherryRoad's 24x7x365 Help Desk or Intellicenter is located in our Morris Plains, NJ Headquarters and provides a method for the County to communicate with CherryRoad to enter tickets or find out the status of a ticket. The Intellicenter resources are monitoring tickets, communicating with the Tier 2 and Tier 3 resources as well as the Service Delivery Manager to ensure tickets are resolved and Service Level Agreements, where applicable, are met.

A critical tool utilized by our help desk and support team is ServiceNow. CherryRoad uses ServiceNow for IT Service Management, which allows us to support our clients using ITIL best practices framework. ServiceNow has been positioned as a leader by Gartner for the fourth year in a row among ITSM tools, and it allows our clients to enter requests or incidents directly into the tool for quick review and work assignment using the service portal. The County will be able to access the service portal via any computer or mobile device with an internet connection. The portal will be similar to what is shown below. The portal allows for incidents and requests to be entered, ticket status to be reviewed, and dashboard views of aggregated information for the County to review.



## 2.2 Out of Scope Items

The following items are outside of CherryRoad's scope for this Project and remain the County's responsibility. Review the Roles and Responsibilities section for further detail. However, upon mutual agreement through the Change Request process, out of scope items can be brought into scope, accounting for any changes to price or schedule as a result.

- Data Clean-up
- 3<sup>rd</sup> Party customizations/Software
- Change Management Program
- Project Management Office (i.e. PMO)

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## 3.0 PeopleSoft Upgrade Project Approach

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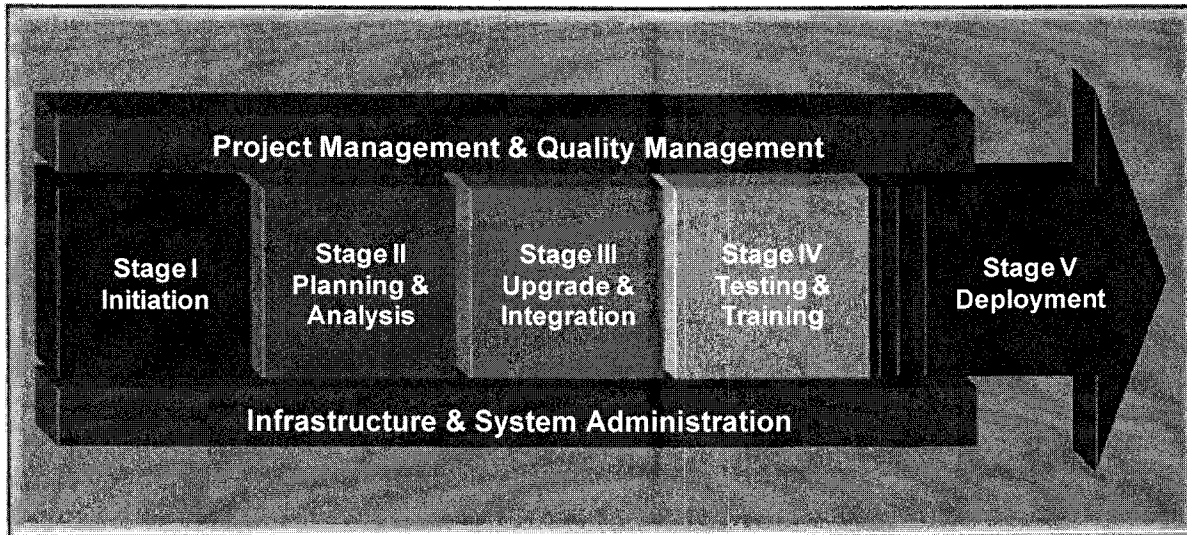
CherryRoad will leverage what was learned in the Initial Pass project in its upgrade methodology. CherryRoad remains flexible and can adapt our approach and/or timeline if needed. For this engagement all the technical work will be done remotely however there are requisite times when resources will work on site together with the County resources.

As referenced in our staffing plan we anticipate starting the project with the fully loaded project team. This will allow us to leverage any artifacts generated through the Initial Pass project. The proposed approach found below provides the high-level timeline and key tasks.

CherryRoad will follow our standard Upgrade Methodology which includes a five-stage, deliverable-based methodology structured in accordance with project management best practices. Each upgrade task rolls up to a summary task or work package and each series of work packages forms a deliverable. This disciplined approach is translated easily into a well-organized project schedule and work breakdown structure. This approach will allow us to work parallel work streams that include both upgrade tasks and implementation tasks that ultimately become one. The County Project Management is given clear visibility so that it may seamlessly monitor and control the effectiveness and progress of the project team.

During the Initiation phase, the project managers will work the first few weeks of the project to set the framework for the rest of the project by creating the project governance (status report, status meetings, communication tasks, project milestones). This will also be the period where we would formalize roles and responsibilities. In parallel with this task the upgrade specialist and project manager lay out all the technical approach and detailed tasks that will be needed for the preliminary plan and execution of the overall upgrade. This will include things such as migration approach, implementation approach, instance plan and strategy, patch strategy etc. At the conclusion of the initiation phase there will be a project kickoff with project stakeholders and participants to review the project scope, timeline, roles and responsibilities. CherryRoad will provide project guidance and support from project initiation through deployment to production

The following graphic depicts the five stages of our methodology.



The upgrade tasks will be divided amongst CherryRoad and the County's staff in an approach tailored for the County in order to achieve a:

- Reduction in project costs
- Quick start up – leverage Initial Pass project and Onsite work
- Minimized impact on current production support staff
- Increased upgrade efficiency
- Efficient use of current staff

The following describes the CherryRoad upgrade methodology project stages and key tasks. CherryRoad will leverage the Initial Pass project and deliverables (where applicable).

### Stage I – Initiation

In this stage, the project leadership establishes the foundation for project success by ensuring the project objectives and success criteria are clearly defined and that expectations are properly set with key stakeholders and sponsors alike. During Initiation, CherryRoad will establish the preliminary project plan and define the processes, procedures, and tools for planning, monitoring, and controlling the project. This will provide the definition and stability required to achieve project goals. The County project team members are prepared for Stage II – Planning and Analysis. Deliverables include but are not limited to;

- Preliminary Project Plan
  - Implementation vs. upgrade
  - Parallel Swim lanes (upgrade vs. Implementation)
- Project Standard and Procedures
- Infrastructure Prepared
- Project kick-off

### Stage II – Planning and Analysis

This stage begins with a comprehensive review of the County's requirements. The project team will review all identified functional, development, and system administration requirements. Following the completion of the requirements analysis, the project team will conduct a Fit/Gap Analysis and produce a deliverable identifying all the known gaps between the County's current functionality being used and

the new version of the PeopleSoft system as delivered. During this exercise, there is a customization review process that is used to analyze all customizations that may need to be retrofit. At the conclusion of the Fit/Gap and customization analysis, final scope of the project is determined. A copy of the County's existing database is taken, and the Initial Pass is executed to upgrade to the new version using a combination of delivered Oracle upgrade scripts and potentially custom scripts developed by the project team. The project scope then drives the schedule, allowing project management to produce the detailed Project Plan Update. The County infrastructure team will remain focused on stabilizing the project infrastructure. Deliverables include but are not limited to;

- Project Plan Updated
- Initial Pass to Production Completed
- Implementation Requirements defined
- Implementation Fit/Gap executed
- Project Scope Finalized
  - Upgrade tasks confirmed
  - Implementation requirements verified
- Retrofit Requirements Defined
- Security Requirements Defined
- Workflow Requirements Defined
- Training Strategy Developed

CherryRoad will work with the County to conduct a Fit/Gap at the beginning of the project. That Fit/Gap will include the evaluation of new functionality. At the end of the Fit/Gap, the CherryRoad Project Manager will work with the County's project manager to prioritize implementing new functionality within the given timeframe and staffing. The new functionality, including the bullet points above will be deployed within the upgrade and/or during the application support timeframe for the costs in this Statement of Work.

### Stage III – Upgrade and Integration

During this stage, the immediate focus of the project team is to begin the process of upgrading the database through the Test Moves Completion. A copy of the County's existing database is taken and upgraded to the new version using a combination of delivered Oracle upgrade scripts and potentially custom scripts developed by the project team. A Test Plan is developed during this stage to define the approach necessary to fully test the upgraded database and retrofitted custom development throughout each of the test moves. If needed, the functional teams' members will complete the application configuration in support of the upgrade and make sure all tasks get logged on a deployment plan. Specifications for interfaces, customizations, and reports requiring retrofit are created and/or updated for the subsequent development. The County's system administration resources will execute the required configuration of the Security and Workflow elements of the system. Deliverables include but are not limited to;

- Test Plan Developed
- Move to Production (Test Move 1) Completed
- Configuration Completed
  - Upgrade components
  - Implementation components
- Implementation Specifications Developed (Collaborative Effort)
- Retrofits Completed (Collaborative Effort)
- Unit Testing
- End User Training Plan Completed

### Stage IV – Testing and Training

The primary focus of this stage is for the project team to execute an upgrade conversion testing program, test all new implemented functionality and to conduct an end user training initiative to ensure

both a quality system and a prepared user population. The focus of the functional, development, and system administration team members will be to execute the tasks and complete the deliverables identified in the Test Plan. This will include test move completion, test script development, system and integration testing, and user acceptance testing. Project team members will collaborate on conducting the testing, reporting defects, and implementing fixes to ensure quality. Following the successful completion of the testing program, the project team updates all impacted application configuration, development programs, and system administration configuration. Upon completion of the updates, all development specifications are updated to include the latest decisions, configuration, and program code in preparation for the transition of the system to Stage V – Deployment. As the functional, development, and system administration project team members are engaged in the testing, the County training resources are focused on the end user training initiative. The project team will leverage existing training documentation. While the project team is primarily focused on the completion of both the testing and training programs, project management is also focused on preparing for Stage V – Deployment. The project management team from CherryRoad and the County collaborates on the development of the Deployment Plan and associated deliverables. Deliverables are completed through the collaborative effort of both CherryRoad and the County which include but are not limited to;

- Deployment Plan Developed
- Move to Production (Test Move 2) Completed
- Test Scripts Completed
- Integration Testing Completed
- System Testing Completed
- User Acceptance testing Completed
- Training Material Developed
- Training Completed

## **Stage V – Deployment**

During this final project stage, the application is upgraded for the final time from the current version production environment to the new version production environment, and system support transitions from the project team to the County's operations team. Prior to the start of Stage V – Deployment, the project team will have clearly defined the steps necessary to achieve these objectives. In Stage IV – Testing and Training, the Deployment Plan is developed and distributed to the project team and the County operations team. The deliverables in Stage V – Deployment are simply the tasks associated with executing these plans. The County collaborates on the development of the Deployment Plan and associated deliverables. Deliverables include but are not limited to;

- Execute Deployment Plan
- Production Support

### Roles & Responsibilities

Tasks are delegated to CherryRoad or the County, with some participation from both parties, where specified in "Lead" and "Participate". Many tasks will be completed with the assistance from each other, in which case the "Lead" party is the driver and coordinator of the task. An "R" indicates full responsibility for the task. It is expected that the team work collaboratively. This matrix is not an exhaustive list; however, it provides the general responsibilities and the spirit in which we will work together to execute this upgrade. These responsibilities will provide important input to our detailed project plan, to be developed at the initiation of the project.

Stage	Area	Task	Deliverable/Milestone	County	CherryRoad
<b>Stage 1 – Initiation</b>					
1	Project Management	Leadership	Project Governance Documents (Project plan, status reports, RAID)	Participate	Lead
1	Project Management	Leadership	Identify and Coordinate Steering Committee/Governance Authority	Lead	Participate
1	Project Management	Leadership	Project Team Kickoff	Participate	Lead
1	Project Management	Leadership	Conduct Status meetings	Participate	Lead
1	Project Management	Issue Tracking	Establish Help Desk for Project Issue Tracking		R
1	Project Management	Documentation	Project Standards and Procedures	Participate	Lead
1	System Administration	System	VPN Access for Remote Resources	R	
1	System Administration	System	Systems Access	R	
1	System Administration	System	Preparation - i.e. VMs, environments, PUM Server	R	
1	System Administration	System	DBA support (backups, new environments, etc.)	R	
1	System Administration	System	Database/OS Install/Upgrades	R	
1	System Administration	System	SA Support (PIA, Process Scheduler, IB, etc.) - Installation	Participate	Lead
1	Development	Archiving	Archive (if applicable)	R	
1	Development	Documentation	Provide Current Customization Listing	R	
1	Development	Documentation	Provide Current Customization Documentation	R	
1	Infrastructure	Installation	Oracle/PeopleSoft Application Installation	R	
1	Infrastructure	Preparation	Project Infrastructure (Shared Drive)	R	
1	Upgrade	Planning	Upgrade Strategy		R
1	Upgrade	System	Install PUM		R
1	Upgrade	Training	Download PUM images and apply updates		R

Stage	Area	Task	Deliverable/Milestone	County	CherryRoad
1	Upgrade	Upgrade Execution	Initial Pass		R
1	Upgrade	Run Compare Reports	Run Compare Reports		R
1	Upgrade	Maintenance	Application Maintenance Applied		R
1	Functional	Documentation	Fit/Gap Analysis Document	Participate	Lead
1	Functional	Testing	Unit Testing (after initial pass)	Participate	Lead
1	Functional	Training	Functional Team Training (oracle – if applicable)	R	
1	Org Readiness	Kickoff	Project Team Kickoff	Lead	Participate
1	Org Readiness	Leadership	Leadership and Goal Alignment Assessment	Lead	Participate
<b>Stage 2 - Planning and Analysis</b>					
2	Project Management	Project Plan	Update Project Plan, Manage RAID (Risks, Actions, Issues, Decisions)	Participate	Lead
2	Project Management	Deployment Plan	Establish Deployment Strategy/Plan	Participate	Lead
2	Project Management	Initiative Roadmap	Establish roadmap to capture both upgrade components and to be implemented components	Participate	Lead
2	System Administration	System	DBA support (backups, new environments, etc.)	R	
2	System Administration	System	Database upgrades	R	
2	System Administration	System	SA Support (PIA, Process Scheduler, IB, etc.) - ongoing	R	
2	Upgrade	Security	Define Application Security	R	
2	Functional	Upgrade	Conduct Fit/Gap include upgraded data	Participate	Lead
2	Functional	Upgrade	Explore new functionality	Participate	Lead
2	Functional	Configuration	Application Configuration	Participate	Lead
2	Functional	Documentation	Gap Resolution Document	Participate	Lead
2	Functional	Training	Provide training on new customizations/functionality - gap resolutions		R
2	Functional/Technical	Documentation	Customizations - Analysis - remediation needed Customization Master List Developed - retrofit or eliminate	Participate	Lead
2	Functional	Documentation	Customization Retrofit Requirements	Participate	Lead
2	Functional	Documentation	Configure new Functionality	Participate	Lead
2	Development	Development	Customization Retrofits and Data	Participate	Lead
2	Development	Development	Interface Retrofits		R
2	Development	Development	Provide list of broken queries		R

Stage	Area	Task	Deliverable/Milestone	County	CherryRoad
2	Development	Development	Create Retrofit Specs	Participate	Lead
2	Development	Development	Custom Query Retrofits	R	
2	Development	Development	Workflow Configuration	Participate	Lead
2	Development	Development	Crystal to BI Publisher Conversion/Retrofits	Participate	Lead
2	Development	Testing	Customization Unit Tested	Participate	Lead
2	Development	Upgrade	Customization Migrations		R
2	Org Readiness	Change Management	Change Management Strategy	R	
2	Org Readiness	Communications	Communications Strategy	R	
2	Development	Issue Resolution	Resolve upgrade related issues	Participate	Lead
2	Org Readiness	Documentation	Organizational Readiness Strategy	R	
2	Org Readiness	Training	End User Training Strategy	Lead	Participate
2	Org Readiness	Training	Training Logistics and Administration Assessment	R	
<b>Stage 3 - Upgrade / Integration</b>					
3	Project Management	Project Plan	Update Project Plan, monitor status	Participate	Lead
3	System Administration	Third-Party Integration	Identify and coordinate testing of TP Integrations	R	
3	System Administration	System	Prepare Production Hardware/Infrastructure	R	
3	System Administration	System	DBA support (backups, new environments, etc.)	R	
3	System Administration	System	SA Support (PIA, Process Scheduler, IB, etc.) - ongoing	R	
3	System Administration	System	IB Setup	R	
3	System Administration	System	Directory Structures/Access	R	
3	System Administration	System	LDAP Connections	Lead	Participate
3	System Administration	System	Desktop Configuration (IE standard – Microsoft Office etc.)	R	
3	System Administration	System	Printer Software (fonts – signatures etc.)	Lead	Participate
3	System Administration	System	Terminal Server Tools – Configured	R	
3	System Administration	System	3rd party software (certified versions etc.)	R	
3	Development	Support	Application / Customization Support	Participate	Lead
3	Upgrade	<b>Upgrade Execution</b>	<b>Move to Production - Test Move 1</b>		R
3	Functional	Security	Configure/Retrofit Security/Fluid Interface	L	Participate
3	System Administration	Upgrade	Migrate Queries		R

Stage	Area	Task	Deliverable/Milestone	County	CherryRoad
3	System Administration	Upgrade	Migrate Customizations		R
3	System Administration	Upgrade	Migrate Security		R
3	System Administration	Upgrade	Migrate Crystals/BI Publisher		R
3	Functional	Testing	System Test	Participate	Lead
3	Functional	Testing	System Test External/TP Integrations	Participate	Lead
<b>Stage 4 - Testing and Training</b>					
4	Project Management	Project Plan	Update Project Plan, monitor status	Participate	Lead
4	System Administration	System	DBA support (backups, new environments, etc.)	R	
4	System Administration	System	SA Support (PIA, Process Scheduler, IB, etc.) - ongoing	R	
4	Development	Support	Application / Customization Support	Participate	Lead
4	Development	Process Scheduler Calendar	Process Scheduler Calendar - add scheduled jobs	R	
4	Upgrade	<b>Upgrade Execution</b>	<b>Move to Production - Test Move 2</b>		R
4	Functional	Testing	Develop Test Plan	Participate	Lead
4	Functional	Testing	Develop Test Scripts	Participate	Lead
4	Functional	Testing	Integration Testing	Lead	Participate
4	Functional	Testing	User Acceptance Testing	Lead	Participate
4	Functional	Training	Targeted Train the Trainer	Participate	Lead
4	Org Readiness	Documentation	Training Materials Development	Lead	Participate
4	Org Readiness	Training	Deliver Training To End Users	R	
<b>Phase 5 - Deployment/Support</b>					
5	Project Management	Deployment	Support	Participate	Lead
5	System Administration	Deployment	Support	Participate	Lead
5	Development	Deployment	Support	Participate	Lead
5	Functional	Deployment	Support	Participate	Lead
5	Upgrade	<b>Deployment</b>	<b>Deploy to Production - Cutover</b>	Participate	Lead
5	Upgrade	Production Support	Production Support	Participate	Lead
5	Development	Production Support	Production Support	Participate	Lead
5	Functional	Production Support	Production Support	Participate	Lead



## 4.0 Project Timeline/ Staffing

### 4.1 Timeline/ Staffing

The below timeline reflects high-level tasks and schedules. As the project unfolds the timeline may be adjusted accordingly.

	2019						2020						
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL
Initial Pass													
Requirement Gathering													
Retrofit Window													
Design Configuration													
Unit testing													
Test Pass 1													
System Test													
Test Pass 2													
UAT/Perf test													
Deploy													

LABOR HOURS	2019						2020							
	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	
PM	160	160	160	160	160	160	160	160	160	160	160	160	160	2,080
Upgrade spec	160	160	160	160	-	160	160	-	160	-	80	160	40	1,400
Functional - Abs Mgt			160	160	160	160	160	160	160	160	160	160		1,600
Functional - TAM/Self Service			160	160	160	160	160	160	160	160	160	160		1,600
Functional - Security/Fluid Interface							160	160	160	160				640
Tech Lead			160	160	160	160	160	160	160	160	160	160	160	1,760
Tech			160	160	160	160	160	160	160	160	160	160		1,600
Tech			160	160	160	160	160	160	160	160				1,280
Perf testing									160	160	160			480
<b>TOTAL</b>	<b>320</b>	<b>320</b>	<b>1,120</b>	<b>1,120</b>	<b>960</b>	<b>1,120</b>	<b>1,280</b>	<b>1,120</b>	<b>1,440</b>	<b>1,280</b>	<b>1,040</b>	<b>960</b>	<b>360</b>	<b>12,440</b>

The proposed staffing assumes 100% of the technical work and 50% of the functional work to be done remotely. CherryRoad will work with the County to ensure an onsite schedule which supports the critical nature of the project.

The County SME resources responsibilities include (but not limited to);

- Meet with CherryRoad Functional Consultants
- Provide business rules and processes to functional consultant
- Define Implementation Requirements
- Aid in development and configuration of PeopleSoft to meet the County business rules and/or change business rules as required
- Provide input to deliverable development.
- Provide testing and use case information to CherryRoad Functional Consultants
- Aid in development of PeopleSoft modules through user scenarios
- Execute User Acceptance Test scenarios

**Exhibit B**  
**Payment Provisions**

**1.0 Project Deliverables/Pricing**

**1.1 Pricing**

The table below reflects a detailed breakdown of the pricing components. Included in the pricing table is the "upgrade" cost of \$2,096,520 plus Oracle Application Support for five (5) years at a cost of \$3,800,000 and CherryRoad Professional Services Support for four (4) additional years at a cost of \$900,000. Total cost over a five (5) year period is \$6,796,520.

Year		PeopleSoft HCM Upgrade	Oracle Application Support	CherryRoad Professional Services Support	Year 1 Total FY19/20	Year 2 Total FY 20/21	Year 3 Total FY 21/22	Year 4 Total FY 22/23	Year 5 Total FY 23/24
1		\$2,096,520.00	\$700,000.00		\$2,796,520.00				
2			\$725,000.00	\$300,000.00		\$1,025,000.00			
3			\$750,000.00	\$200,000.00			\$950,000.00		
4			\$800,000.00	\$200,000.00				\$1,000,000.00	
5			\$825,000.00	\$200,000.00					\$1,025,000.00
	<b>Total</b>	<b>\$2,096,520.00</b>	<b>\$3,800,000.00</b>	<b>\$900,000.00</b>					
	<b>Grand Total</b>								<b>\$6,796,520.00</b>

**1.2 PeopleSoft HCM Upgrade Progress Payment**

All pricing may be increased or decreased based on the final scope and effort to complete. Pricing is broken down into two components, Progress payment which is a payment schedule based on the overall timeline and a Deliverable Schedule which represents key tasks executed throughout the life of the project. The following is a summary of our pricing:

**Upgrade Progress Payment - \$480,000.00**

#	Task	Description	Acceptance	Price
P1	Month 1	Month 1 of the project is completed. This represents a progress payment.	Month 1 completed - Monthly Status report provided	\$40,000.00
P2	Month 2	Month 2 of the project is completed. This represents a progress payment.	Month 2 completed - Monthly Status report provided	\$40,000.00
P3	Month 3	Month 3 of the project is completed. This represents a progress payment.	Month 3 completed - Monthly Status report provided	\$40,000.00
P4	Month 4	Month 4 of the project is completed. This represents a progress payment.	Month 4 completed - Monthly Status report provided	\$40,000.00
P5	Month 5	Month 5 of the project is completed. This represents a progress payment.	Month 5 completed - Monthly Status report provided	\$40,000.00
P6	Month 6	Month 6 of the project is completed. This represents a progress payment.	Month 6 completed - Monthly Status report provided	\$40,000.00
P7	Month 7	Month 7 of the project is completed. This represents a progress payment.	Month 7 completed - Monthly Status report provided	\$40,000.00
P8	Month 8	Month 8 of the project is completed. This represents a progress payment.	Month 8 completed - Monthly Status report provided	\$40,000.00
P9	Month 9	Month 9 of the project is completed. This represents a progress payment.	Month 9 completed - Monthly Status report provided	\$40,000.00
P10	Month 10	Month 10 of the project is completed. This represents a progress payment.	Month 10 completed - Monthly Status report provided	\$40,000.00
P11	Month 11	Month 11 of the project is completed. This represents a progress payment.	Month 11 completed - Monthly Status report provided	\$40,000.00
P12	Month 12	Month 12 of the project is completed. This represents a progress payment.	Month 12 completed - Monthly Status report provided	\$40,000.00
	Total			\$480,000.00

**1.3 PeopleSoft HCM Upgrade Deliverables****Upgrade Deliverables - \$1,616,520.00**

#	Task	Acceptance	Price
D1	Upgrade PeopleTools from 8.53 to 8.57	Copy of 9.0 production on 8.57 PeopleTools and PeopleTools Compare reports.	\$175,000.00
D2	Upgrade Application to 9.2 (Initial Pass)	Upgraded copy of production on 9.2/8.57	\$175,000.00
D3	Retrofit Customizations	Retrofits completed	\$175,000.00
D4	Create Upgrade Test Move Plan	Upgrade Test Move #1 Plan	\$50,000.00
D5	Create Test Scripts for SIT and UAT testing	Test Scripts provided	\$150,000.00
D6	Execute Upgrade Test Move to Production #1	New Copy of Production MBFP92 fully upgraded and running on new production hardware	\$150,000.00
D7	Create instance UAT env2	User Acceptance Environment Established – Users are able to login	\$125,000.00
D8	Perform System Testing	All test scripts completed successfully or have an acceptable failure cause	\$150,000.00
D9	Refine Upgrade Test Move Plan for test Move to Production #2	Upgrade Test Move #2 Plan	\$85,000.00
D10	Execute Upgrade Test Move to Production #2	New Copy of Production MBFP92 fully upgraded and running on completed production hardware / infrastructure	\$150,000.00

#	Task	Acceptance	Price
D11	Perform User Acceptance Testing	All test scripts completed successfully or have an acceptable failure cause	\$100,000.00
D12	Provide Training	All Training Class(s) executed	\$50,000.00
D13	Production Deployment	Application deployed to the Production environment and turned over to the County users	\$50,000.00
D14	Production Support	Production Support	\$31,520.00
	<b>Total Deliverables</b>		<b>\$1,616,520</b>
	<b>Total Progress Payments</b>		<b>\$480,000</b>
	<b>Total</b>		<b>\$2,096,520</b>

#### 1.4 CherryRoad Professional Services Support – Post Go-Live Support

##### Professional Services Support - \$900,000

#	Task	Description	Hours	Price
AS1	First Year Professional Services Support – starts 7/1/2020	Functional / Technical Application Support of the PeopleSoft system	TBD based upon Rate Card in Section 5.6 of Project Deliverables/Pricing	\$300,000.00
AS2	Second Year Professional Services Support – starts 7/1/2021	Functional / Technical Application Support of the PeopleSoft system	TBD based upon Rate Card in Section 5.6 of Project Deliverables/Pricing	\$200,000.00
AS3	Third Year Professional Services Support – starts 7/1/2022	Functional / Technical Application Support of the PeopleSoft system	TBD based upon Rate Card in Section 5.6 of Project Deliverables/Pricing	\$200,000.00

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#	Task	Description	Hours	Price
AS4	Fourth Year Professional Services Support – starts 7/1/2023	Functional / Technical Application Support of the PeopleSoft system	TBD based upon Rate Card in Section 5.6 of Project Deliverables/Pricing	\$200,000.00
<b>Total Cost of Professional Services Support</b>				<b>\$900,000</b>

Payment due date is due July 1st of each year.

### 1.5 Oracle Application Support – Five (5) Year Agreement

#### Oracle Application Support - \$3,800,000

#	Task	Description	Price
OR1	First Year Oracle Application Support	First Year Oracle Application Support starting 7/1/2019	\$700,000.00
OR2	Second Year Oracle Application Support	Second Year Oracle Application Support starting 7/1/2020	\$725,000.00
OR3	Third Year Oracle Application Support	Third Year Oracle Application Support starting 7/1/2021	\$750,000.00
OR4	Fourth Year Oracle Application Support	Fourth Year Oracle Application Support starting 7/1/2022	\$800,000.00
OR5	Fifth Year Oracle Application Support	Fifth Year Oracle Application Support starting 7/1/2022	\$825,000.00
<b>Total Cost of Oracle Application Support</b>			<b>\$3,800,000.00</b>

Payment is due July 1st of each year.

**1.6 Rate Card**

The County may pursue work that is outside of the scope of this Statement of Work. The rate card below will be used to document the rates for this work. CherryRoad has also included Application Support in 5.4 of this document. Application support will be billed using the rate card below.

Position	Fully Loaded Hourly Rate	Hourly Rate (offsite)
Engagement Manager	\$225	\$190
Project Manager	\$205	\$170
Functional Lead	\$195	\$160
Technical Lead	\$195	\$160
System Engineer/System Architect	\$185	\$150
Technical Developer	\$185	\$150
Upgrade Specialist	\$185	\$150
Security Lead	\$185	\$150
UPK Lead	\$185	\$150
Managed Services DBA	\$160	\$125



## 1.7 Assumptions

The following assumptions, conditions, and dependencies associated with this proposal are fundamental to the approach we have proposed, the level of effort estimated, and the costs included in our proposal. This list is not meant to be exhaustive. It is meant to develop and present the spirit and intent with which CherryRoad enters into a contractual partnership.

- New functionality will be implemented/configured only if it does not impact the proposed timeline and budget.
- CherryRoad will lead the Crystal to BI conversion initiative. The final number of conversions will be determined based on the number and complexity that can be completed within the timeline and budget of the project.
- The County will provide adequate resources for the project included but not limited to Project Manager, Functional Resources and Technical Resources.
- The County is responsible for issues related to third party applications and integrations. The County will retrofit the interfaces and coordinate testing with any third parties.
- The project will use ServiceNow (CherryRoad's helpdesk) to track all issues related to the project.
- The County will appoint a Steering Committee that will meet as needed, but not less than monthly, to review project progress and discuss/resolve issues related to the project.
- Additional third-party hardware and software license costs are not included in CherryRoad's upgrade costs. CherryRoad is not responsible for the acquisition or installation of third-party hardware (on the County internal Network – if applicable) or software requests by the County.

The cost estimates are based on information gathered to date and reflects a technical platform migration with minimal functional changes. If additional information is gained during the Project that changes scope, we would follow the change order process as described in the agreement (which may include adjustments to cost and/or timeline).

## Attachment I

### HIPAA Business Associate Agreement Addendum to Contract

Between the County of Riverside and CherryRoad Technologies, Inc.

This HIPAA Business Associate Agreement (the "Addendum") supplements is made part of the Underlying Agreement between the County of Riverside ("County") and CherryRoad Technologies, Inc. ("Contractor") and shall be effective as of the date the Underlying Agreement approved by both Parties (the "Effective Date").

#### RECITALS

WHEREAS, County and Contractor entered into the Underlying Agreement pursuant to which the Contractor provides services to County, and in conjunction with the provision of such services certain protected health information ("PHI") and/or certain electronic protected health information ("ePHI") may be created by or made available to Contractor for the purposes of carrying out its obligations under the Underlying Agreement; and,

WHEREAS, the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Public Law 104-191 enacted August 21, 1996, and the Health Information Technology for Economic and Clinical Health Act ("HITECH") of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 enacted February 17, 2009, and the laws and regulations promulgated subsequent thereto, as may be amended from time to time, are applicable to the protection of any use or disclosure of PHI and/or ePHI pursuant to the Underlying Agreement; and,

WHEREAS, County is a covered entity, as defined in the Privacy Rule; and,

WHEREAS, to the extent County discloses PHI and/or ePHI to Contractor or Contractor creates, receives, maintains, transmits, or has access to PHI and/or ePHI of County, Contractor is a business associate, as defined in the Privacy Rule; and,

WHEREAS, pursuant to 42 USC §17931 and §17934, certain provisions of the Security Rule and Privacy Rule apply to a business associate of a covered entity in the same manner that they apply to the covered entity, the additional security and privacy requirements of HITECH are applicable to business associates and must be incorporated into the business associate agreement, and a business associate is liable for civil and criminal penalties for failure to comply with these security and/or privacy provisions; and,

WHEREAS, the parties mutually agree that any use or disclosure of PHI and/or ePHI must be in compliance with the Privacy Rule, Security Rule, HIPAA, HITECH and any other applicable law; and,

WHEREAS, the parties intend to enter into this Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.
  - A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.
    - (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates

that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:

- (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
- (b) The unauthorized person who used the PHI or to whom the disclosure was made;
- (c) Whether the PHI was actually acquired or viewed; and
- (d) The extent to which the risk to the PHI has been mitigated.

(2) Breach excludes:

- (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
  - (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
  - (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
  - C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
  - D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
  - E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
  - F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
  - G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
  - H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.
  - I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
  - J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
  - K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.
  - L. "Required by law" has the meaning given such term in 45 CFR §164.103.

- M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
- N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
- P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
- Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).

**2. Scope of Use and Disclosure by Contractor of County's PHI and/or ePHI.**

- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
  - 1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
  - 2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
    - a) The disclosure is required by law; or,
    - b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
      - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
      - ii. Notify County of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,
  - 3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,
  - 4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

**3. Prohibited Uses and Disclosures.**

- A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.
- B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.
- C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.
- D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936. Contractor agrees:
  - 1) Not to use or disclose PHI for fundraising, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45 CFR §164.508;
  - 2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.508(a)(3);
  - 3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,
  - 4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45 CFR §164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

**4. Obligations of County.**

- A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.
- D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.
- E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.

5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:

- A. Use or disclose PHI only if such use or disclosure complies with each applicable requirement of 45 CFR §164.504(e). Contractor shall also comply with the additional privacy requirements that are applicable to covered entities in HITECH, as may be amended from time to time.
- B. Not use or further disclose PHI and/or ePHI other than as permitted or required by this Addendum or as required by law. Contractor shall promptly notify County if Contractor is required by law to disclose PHI and/or ePHI.
- C. Use appropriate safeguards and comply, where applicable, with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI and/or ePHI other than as provided for by this Addendum.
- D. Mitigate, to the extent practicable, any harmful effect that is known to Contractor of a use or disclosure of PHI and/or ePHI by Contractor in violation of this Addendum.
- E. Report to County any use or disclosure of PHI and/or ePHI not provided for by this Addendum or otherwise in violation of HITECH, HIPAA, the Privacy Rule, and/or Security Rule of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410.
- F. In accordance with 45 CFR §164.502(e)(1)(ii), require that any subcontractors that create, receive, maintain, transmit or access PHI on behalf of the Contractor agree through contract to the same restrictions and conditions that apply to Contractor with respect to such PHI and/or ePHI, including the restrictions and conditions pursuant to this Addendum.
- G. Make available to County or the Secretary, in the time and manner designated by County or Secretary, Contractor's internal practices, books and records relating to the use, disclosure and privacy protection of PHI received from County, or created or received by Contractor on behalf of County, for purposes of determining, investigating or auditing Contractor's and/or County's compliance with the Privacy Rule.
- H. Request, use or disclose only the minimum amount of PHI necessary to accomplish the intended purpose of the request, use or disclosure in accordance with 42 USC §17935(b) and 45 CFR §164.502(b)(1).
- I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.
- J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
- K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
- L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
- M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
- N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.

6. **Access to PHI, Amendment and Disclosure Accounting.** Contractor agrees to:

- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
- B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
- C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
  - 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
  - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.
  - 3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.

7. **Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:

- A. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
- B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
- C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
- D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
- E. Ensure compliance with the Security Rule by Contractor's workforce;
- F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;
- G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
- H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

8. **Breach of Unsecured PHI.** In the case of breach of unsecured PHI, Contractor shall comply with the applicable provisions of 42 USC §17932 and 45 CFR Part 164, Subpart D, including but not limited to 45 CFR §164.410.
- A. **Discovery and notification.** Following the discovery of a breach of unsecured PHI, Contractor shall notify County in writing of such breach without unreasonable delay and in no case later than 60 calendar days after discovery of a breach, except as provided in 45 CFR §164.412.
- 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).
  - 2) **Content of notification.** The written notification to County relating to breach of unsecured PHI shall include, to the extent possible, the following information if known (or can be reasonably obtained) by Contractor:
    - a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;
    - b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
    - c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;
    - d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;
    - e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,
    - f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.
- B. **Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, prominent media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.
- C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.
- D. **Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.
- E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be



construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.

- F. **Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.
- G. **Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15. For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).
  - 1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and to the California Department of Public Health ("CDPH") in a timely manner under the California Health & Safety Code §1280.15.
  - 2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure of patient's medical information without unreasonable delay and no later than two (2) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. **Hold Harmless/Indemnification.**

- A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. Contractor shall defend, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.
- B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor 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 action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.

- D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.
- E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.
10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:
- 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
  - 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.
  - 3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the request of the non-breaching party, shall implement, at its own expense, a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.
- B. **Effect of Termination.**
- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.
  - 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.
12. **General Provisions.**
- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.
- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.

- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.
- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
- 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.
  - 2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.
- G. **Notices to County.** All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer: HIPAA Privacy Manager  
County HIPAA Privacy Officer Address: 26520 Cactus Avenue,  
Moreno Valley, CA 92555

County HIPAA Privacy Officer Phone Number: (951) 486-6471