

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division**

**Amendment Five**

THIS AMENDMENT (this "Amendment") is made as of **May 22, 2011**, in San Francisco, California, by and between **Oracle America, Inc., 1910 Oracle Way, Reston VA 20190** ("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its Director of the Office of Contract Administration.

**RECITALS**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the ULA / Unlimited Deployment Program term, extend the existing technical support, increase the contract amount, and update standard contractual clauses;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**1a. Agreement.** The term "Agreement" shall mean the Oracle pre-printed License and Services Agreement (OLSA V071807) dated November 21, 2007 between Contractor and City, as amended by, Amendment One dated November 21, 2007, Amendment Two dated November 17, 2008, Amendment Three dated February 22, 2010, the Assignment and Assumption Agreement dated October 5, 2010, and Amendment Four dated October 5, 2010.

**1b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Definitions.** Section 1 of the Agreement currently reads as follows:

**1. Definitions**

AGREEMENT      The Oracle pre-printed License and Services Agreement (OLSA V071807), to which Amendments One, Amendment Two and Amendment Three, and this document, Amendment Four, are attached, and these documents shall be construed together as this "Agreement."

AMENDMENT      Amendment One, Amendment Two, Amendment Three, and this document, Amendment Four, which contain City's express terms that both (i) supplement and (ii) control over any conflict or clear inconsistency with the terms of the OLSAv071807.

....

THE ORDERING  
DOCUMENTS

The Oracle ordering forms attached to Amendment One as Appendix A, the Oracle ordering forms attached to Amendment Two as Appendix B, the Oracle ordering forms attached to Amendment Three as Appendix C, and the Oracle ordering forms attached to Amendment Four as Appendix D.

AUTHORIZATION; or  
AUTHORIZATION  
DOCUMENT

This Agreement, a Blanket Purchase Order, Contract Order, or Purchase Order of the City, properly executed by the Office of the Controller and Purchasing, and certified by the Controller for the specific funding of this Agreement or any modification thereof. A Purchase Order certified by the Controller indicates full funding for that order.

Whenever the words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Office of the Controller. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the judgment of the Office of the Controller, unless otherwise indicated by the context.

**Such section is hereby amended in its entirety to read as follows:**

**1. Definitions**

AGREEMENT The Oracle pre-printed License and Services Agreement (OLSA V071807), to which Amendments One, Amendment Two, Amendment Three, Amendment Four and this document, Amendment Five, are attached, shall be construed together as this "Agreement."

AMENDMENT Amendment One, Amendment Two, Amendment Three, Amendment Four and this document, Amendment Five, which contain City's express terms that both (i) supplement and (ii) control over any conflict or clear inconsistency with the terms of the OLSAv071807.

....

THE ORDERING

DOCUMENTS The Oracle ordering forms attached to Amendment One as Appendix A, the Oracle ordering forms attached to Amendment Two as Appendix B, the Oracle ordering forms attached to Amendment Three as Appendix C, the Oracle ordering forms attached to Amendment Four as Appendix D, and the Oracle ordering forms attached to Amendment Five as Appendix E.

AUTHORIZATION; or  
AUTHORIZATION  
DOCUMENT

This Agreement, a Blanket Purchase Order, Contract Order, or Purchase Order of the City, properly executed by the Office of the Controller and Purchasing, and certified by the Controller for the specific funding of this Agreement or any modification thereof. A Purchase Order certified by the Controller indicates full funding for that order.

Whenever the words "as directed," "as required," "as permitted," or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Office of the Controller. The words "sufficient," "necessary," or "proper," and the like, mean sufficient, necessary or proper in the judgment of the Office of the Controller, unless otherwise indicated by the context.

**2b. City's Payment Obligation.** Section 3 of the Agreement currently reads as follows:

**3. City's Payment Obligation**

The City will pay all invoices within 30 days of the invoice date. However, failure to pay within the 30 days of the invoice date shall not be deemed a default or material breach of this Agreement without notice to the City and a reasonable opportunity to cure. In no event shall City be liable for interest or late charges for any late payments made after such 30-day period.

Contractor and the City understand and intend that the obligations of the City to pay fees for Support hereunder shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of the City.

No fees or expenses will be paid except those specifically agreed upon, in writing, in the Ordering Documents. Under no circumstances shall the fees and expenses result in payment of an amount that exceeds the total amount of this Agreement as set forth below.

Notwithstanding anything in this Agreement to the contrary, City shall pay any sales and use taxes that may be imposed upon the services and commodities obtained under this Agreement as long as the amount of such taxes are clearly identified on the Contractor's invoice. The City shall not be required to pay taxes directly to the tax assessing authority. City shall not pay any taxes based on Contractor's income.

The City shall pay fees for Support, exclusively from legally available funds, to Contractor or, in the event of an authorized assignment by Contractor to its assignee, according to the terms of the Agreement, upon presentation of invoices furnished by Contractor in a form acceptable to the Controller. Payments will be made by warrant drawn on the Treasurer of the City.

To cover the purchase under the Oracle order document attached as Appendix C to this Third Amendment, the amount for the Support fees shall be increased by Two Hundred Forty-One Thousand, Eight Hundred Fifty Five dollars (\$241,855).

In no event shall the aggregate amount of the Software License payments exceed One Million Ninety-Nine Thousand, Three Hundred Forty Dollars (\$1,099,340). In no event shall the fees for Support exceed One Million Twenty Three Thousand and Eighty Dollars (\$1,023,080).

In no event shall the total amount for all software and services paid under this contract exceed Two Million One Hundred and Twenty Two Thousand Four Hundred and Twenty Dollars (\$2,122,420).

The City shall pay the fees for the Software Licensed pursuant to each order document attached to this Agreement in one lump sum after the Controller has certified the funds regarding that order and issued a Purchase Order. Payments of fees for Support shall be invoiced by Contractor in arrears on a quarterly basis.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

**Such section is hereby amended in its entirety to read as follows:**

### **3. City's Payment Obligation**

The City will pay all invoices within 30 days of the invoice date. However, failure to pay within the 30 days of the invoice date shall not be deemed a default or material breach of this Agreement without notice to the City and a reasonable opportunity to cure. In no event shall City be liable for interest or late charges for any late payments made after such 30-day period.

Contractor and the City understand and intend that the obligations of the City to pay fees for Support hereunder shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies of the City.

No fees or expenses will be paid except those specifically agreed upon, in writing, in the Ordering Documents. Under no circumstances shall the fees and expenses result in payment of an amount that exceeds the total amount of this Agreement as set forth below.

Notwithstanding anything in this Agreement to the contrary, City shall pay any sales and use taxes that may be imposed upon the services and commodities obtained under this Agreement as long as the amount of such taxes are clearly identified on the Contractor's invoice. The City shall not be required to pay taxes directly to the tax assessing authority. City shall not pay any taxes based on Contractor's income.

The City shall pay fees for Support, exclusively from legally available funds, to Contractor or, in the event of an authorized assignment by Contractor to its assignee, according to the terms of the Agreement, upon presentation of invoices furnished by Contractor in a form acceptable to the Controller. Payments will be made by warrant drawn on the Treasurer of the City.

To cover the purchase under the Oracle order document attached as Appendix E to this Fifth Amendment, the amount for license fees shall be increased by Five Hundred and Nine Thousand, One Hundred and Eight Nine dollars (\$509,189) and the Support fees shall be increased by One Hundred Seventy One Thousand, Six Hundred and Fifty Seven dollars (\$171,657).

In no event shall the aggregate amount of the Software License payments exceed One Million, Six Hundred and Eight Thousand, Five Hundred and Twenty Nine dollars (\$1,608,529). In no event shall the aggregate amount of Support payments exceed One Million, One Hundred Ninety Four Thousand, Seven Hundred and Thirty Seven dollars (\$1,194,737).

In no event shall the total amount for all software and services paid under this contract exceed Two Million, Eight Hundred and Three Thousand, Two Hundred and Sixty Six dollars (\$2,803,266).

The City shall pay the fees for the Software Licensed pursuant to each order document attached to this Agreement in one lump sum after the Controller has certified the funds regarding that order and issued a Purchase Order. Payments of fees for Support shall be invoiced by Contractor in arrears on a quarterly basis.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

**2 c. Term of the Agreement.** Section 4 of the Agreement currently reads as follows:

**4. Term of the Agreement**

**a. Term of the License**

Subject to Section 5, the license granted under this Agreement shall commence upon Acceptance of the Licensed Software and shall continue in perpetuity. All licenses granted under this Agreement shall be perpetual unless otherwise stated in the specific Ordering Document procuring the license, and shall be in the quantity that City designates in its ULA certification delivered to Contractor in accordance with section C of the November 2007 Ordering Document (Appendix A).

**b. Term of the Support and Update Services**

Subject to Section 5, the term of the Support shall be from the date of Acceptance to February 21, 2012 unless sooner terminated in accordance with the provisions of this Agreement. This term may be renewed annually at City's option for Five (5) additional one year terms (with the price caps set forth in Section B.6 of the November 2007 Ordering Document, Appendix A) by issuance of an amendment to this Agreement.

**Such section is hereby amended in its entirety to read as follows:**

**4. Term of the Agreement**

**a. Term of the License**

Subject to Section 5, the license granted under this Agreement shall commence upon Acceptance of the Licensed Software and shall continue in perpetuity. All licenses granted under this Agreement shall be perpetual unless otherwise stated in the specific Ordering Document procuring the license, and shall be in the quantity that City designates in its ULA certification delivered to Contractor in accordance with section C of the November 2007 Ordering Document (Appendix A) as amended by Amendment One to the Ordering Document dated May 22, 2011 and attached hereto and incorporated by reference as Appendix E.

**b. Term of the Support and Update Services**

Subject to Section 5, the term of the Support shall be from the date of Acceptance to May 22, 2012 unless sooner terminated in accordance with the provisions of this Agreement. This term may be renewed annually at City's option for Four (4) additional one year terms (with the price caps set forth in Section B.6 of the November 2007 Ordering Document, Appendix A as amended by Amendment One to the Ordering Document dated May 22, 2011 and attached hereto and incorporated by reference as Appendix E) by issuance of an amendment to this Agreement.

**2d. Delivery.** Section 7 of the Agreement currently reads as follows:

**7. Delivery.**

**a. Delivery.** Contractor shall make the Licensed Software products available to download by City beginning no later than the date specified in the November 2007 Ordering Document (Appendix A), after certification of the purchase order and notice to Contractor.

**Such section is hereby amended in its entirety to read as follows:**

**7. Delivery.** Contractor shall make the Licensed Software products available to download by City beginning no later than the date specified in the November 2007 Ordering Document (Appendix A) as amended by Amendment One to the Ordering Document dated May 22, 2011 and attached hereto and incorporated by reference as Appendix E, after certification of the purchase order and notice to Contractor.

**2e. Submitting False Claims; Monetary Penalties.** Section 15 is hereby replaced in its entirety to read as follows:

**15. Submitting False Claims; Monetary Penalties.**

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

**2f.** The May 22, 2011 Ordering Document amending the November 27, 2007 Ordering Document (Appendix A), is added to the Agreement and incorporated by reference hereto as Appendix E.

**3. Effective Date.** Each of the modifications set forth in Section 2 shall be effective on and after **May 22, 2011.**

**4. Legal Effect.** Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

**5. Order of Precedence.** In the event of any conflict between the terms of this Amendment Five and the Agreement as amended by Amendments One, Two, Three, and Four this Amendment Five shall control.


IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.


**CITY**

**CONTRACTOR**

Recommended by:

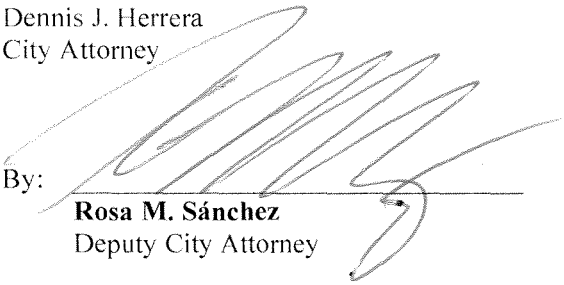
**Oracle America, Inc.**

  
\_\_\_\_\_  
**Ben Rosenfield**  
Controller  
Office of the Controller

  
\_\_\_\_\_  
Name: DOUGLAS W. DORNAN  
Title: DIRECTOR, LICENSE CONTRACTS

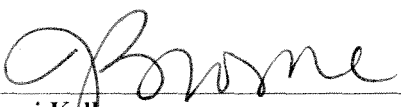
Approved as to Form:

**Oracle America, Inc.**  
1910 Oracle Way  
Reston, VA 20190

Dennis J. Herrera  
City Attorney  
  
By: \_\_\_\_\_  
**Rosa M. Sanchez**  
Deputy City Attorney

**City vendor number: 41827**

Approved:

  
\_\_\_\_\_  
**Naomi Kelly**  
Director of the Office of Contract  
Administration, and Purchaser

Attachments:

Appendix E      Amendment One to the Ordering Document executed on November 27, 2007  
(Appendix A).

*Stamp: SUBMITTED 5/22/11*

# AMENDMENT ONE TO THE ORDERING DOCUMENT

## ORACLE CONTRACT INFORMATION

This document (this "**Amendment One**") amends the ordering document executed on November 27, 2007 (the "**ordering document**") between the **City and County of San Francisco** ("**you**" or "CCSF") and Oracle America, Inc., as successor in interest to Oracle USA, Inc. ("**Oracle**"). All terms used but not otherwise defined in this Amendment One shall have the meanings given to such terms in the ordering document.

WHEREAS, subject to the terms and conditions of this Amendment One, the parties desire to amend the ordering document as follows:

- extend the Unlimited Deployment Period to end on November 30, 2012 (or such earlier period as set forth in section C.1.c of the ordering document);
- extend the existing technical support from February 22, 2012 to May 21, 2012; and
- add to the Unlimited Deployment Programs, one additional Unlimited Deployment Program as set forth (and denoted with two asterisks (\*\*)) in section 1.1 of this Amendment One, and

WHEREAS, the parties also desire to amend, restate, and update certain other provisions of the ordering document, as set forth below;

NOW THEREFORE, in consideration of the representations and agreements contained in this Amendment One and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to amend the ordering document as follows:

### 1. CHANGES TO THE ORDERING DOCUMENT

1.1 Section A (Programs and Services) of the ordering document shall be deleted in its entirety and replaced with the following:

"CCSF, as described in section B.1 of the ordering document, has ordered the program licenses and technical support services described below.

The programs designated below with an asterisk (\*) are for use on an unlimited number of Processors until November 30, 2012, subject to the fixing requirements and all other terms and conditions of this ordering document (each such program being referred to as an "**Unlimited Deployment Program**" and collectively as the "**Unlimited Deployment Programs**"). These are restricted-use programs which may be used solely with CCSF's Project eMerge. The licenses ordered under this ordering document have a perpetual term in accordance with the agreement. The quantity of licenses will be determined pursuant to the section C.1.b of the ordering document ("Certified Deployment")"

Product Description / License Type	Quantity
a. * Advanced Security – Processor Perpetual	Unlimited
b. * Configuration Management Pack for Oracle Database – Processor Perpetual	Unlimited
c. * Diagnostics Pack – Processor Perpetual	Unlimited
d. * Oracle Application Management Suite for PeopleSoft - Processor Perpetual	Unlimited
e. * Oracle Database Enterprise Edition – Processor Perpetual	Unlimited
f. * Partitioning – Processor Perpetual	Unlimited
g. * Provisioning and Patch Automation Pack for Database – Processor Perpetual	Unlimited
h. * Real Application Clusters – Processor Perpetual	Unlimited
i. * Tuning Pack – Processor Perpetual	Unlimited
j. * Oracle Active Data Guard – Processor Perpetual**	Unlimited

You acknowledge and agree that the programs listed in the table above represent all the programs that you are licensed for under the ordering document, as amended by this Amendment One.

1.2 Sections B.2 (Commencement Date), B.4 (Fees, Invoicing, and Payment Obligation), and B.5 (Delivery and Installation) of the ordering document shall not apply to this Amendment One.

1.3 Sections B.6.b (Technical Support Cap) and B.6.c (Total Support Stream) of the ordering document shall be deleted in their entirety and replaced with the following:

"b. **Technical Support Caps.** Software Update License & Support (or any successor technical support offering to Software Update License & Support, "**SULS**") for the programs licensed under section 1.1 of this Amendment One may be renewed annually; and if you renew such technical support, then the annual technical support caps for the subsequent renewal years shall be as provided in the following table:



Period of Performance	Percentage Not to Exceed in Annual Increase over the Prior Year's SULS Fees
May 22, 2012 – May 21, 2013	0%
May 22, 2013 – November 29, 2013***	0%
November 30, 2013 – November 29, 2014	2%
November 30, 2014 – November 29, 2015	2%
November 30, 2015 – November 29, 2016	2%

\*\*\* The technical support services ordered between each of the renewal periods denoted with three asterisks (\*\*\*) shall be pro-rated to the end date of such period of performance (for the support period and technical support fee).

The technical support caps set forth in the preceding sentence are granted, provided that, (a) with respect to each technical support renewal year that occurs during the Unlimited Deployment Period, you renew the Total Support Stream (as amended by Amendment One), and (b) with respect to each technical support renewal year that occurs after the end of the Unlimited Deployment Period, you renew the total technical support due under the ordering document (as amended by Amendment One) for the same number of licenses for the same programs as the previous year.

c. **Total Support Stream.** For purposes of this ordering document, the "Total Support Stream" shall mean: (i) the existing technical support for the licenses acquired under section A of the ordering document (as amended by Amendment One); and (ii) the net technical support fees for the new licenses acquired under Amendment One to this ordering document."

1.4 In the first sentence of the first paragraph of section C.1.a (Unlimited Deployment Right/ General) of the ordering document, delete "specified in section A, for 3.5 years" and replace it with "specified in section A of the ordering document (as amended by Amendment One), for 5 years".

1.5 In the first sentence of the second paragraph of Section C.1.a (Unlimited Deployment Right/ General) of the ordering document, delete the two instances of "three and a half years" and replace them with "five (5) years".

## 2. FEES, INVOICING AND PAYMENT OBLIGATIONS

2.1 You agree to pay Oracle the license and services fees set forth in the table below for the program licenses for Unlimited Deployment Programs acquired under section A of the ordering document (as amended by Amendment One) and technical support services acquired under this Amendment One.

	Net Fees
Net New License Fees	509,189.00
Net Technical Support Fees for New Licenses	112,021.58
Net Technical Support Fees for Existing Licenses****	59,635.42
<b>Total Fees</b>	<b>680,846.00</b>

\*\*\*\* The "Net Technical Support Fees for Existing Licenses" are from February 22, 2012 to May 21, 2012 of technical support fees.

2.2 All fees under this Amendment One are non-cancelable and the sums paid nonrefundable, except as provided in the agreement. All fees on this Amendment One are in US Dollars.

2.3 All program licenses and the period of performance for all services acquired under this Amendment One are effective upon the effective date of this Amendment One (such effective date being referred to as the "commencement date").

2.4 License and services fees are invoiced as of the commencement date. Service fees are invoiced in arrears of the service performance; specifically, technical support fees are invoiced quarterly in arrears.

2.5 In addition to the fees listed in section 2.1 above, Oracle will invoice you for any applicable shipping charges or applicable taxes.

2.6 The total annual technical support fees due under the ordering document, as amended by this Amendment One, and specified in the table in section 2.1 above, include (a) the existing technical support fees from February 22, 2012 to May 21, 2012, and (b) incremental technical support fees for the program licenses acquired under section A of the ordering document, as amended by section 1.1 of this Amendment One. Nothing in this Amendment One shall be deemed to relieve you of your obligation to maintain all of the components of the Total Support Stream (as amended by this Amendment One) in order to receive your Unlimited Deployment Right and technical support for the program licenses acquired under the ordering document (as amended by this Amendment One).

2.7 The invoices listed in the table below show the technical support fees due (or to be due) under renewal support contract number 2599575 for the periods of performance of technical support as noted in the "Invoice Term" column for existing program licenses listed in section 1.1. above as a through i. The amounts listed in the "Invoice Amount" column are inclusive of taxes, which

shall be removed, if not applicable. Nothing in this ordering document shall change your obligation to pay the invoices in the table below:

Renewal Support Contract Number	CSI Number	Invoices	Invoice Term		Invoice Amount	Invoice Due Date
2599575	15685350	41129531	22-Nov-10	21-Feb-11	\$63,335.74	22-Mar-11
2599575	15685350	41341895	22-Feb-11	21-May-11	\$63,335.73	20-Jun-11
2599575	15685350	41341893	22-May-11	21-Aug-11	\$63,335.73	20-Sep-11
2599575	15685350	41341896	22-Aug-11	21-Nov-11	\$63,335.73	21-Dec-11
2599575	15685350	41341894	22-Nov-11	21-Feb-12	\$63,335.74	22-Mar-12

2.8 In entering into payment obligations under this Amendment One, you agree and acknowledge that you have not relied on the future availability of any program or updates. However, (a) if you order technical support for programs licensed under this Amendment One, the preceding sentence does not relieve Oracle of its obligation to provide such technical support under this Amendment One if-and-when available, in accordance with Oracle's then current technical support policies, and (b) the preceding sentence does not change the rights granted to you for any program licensed under this Amendment One, per the terms of this Amendment One, the ordering document, and the agreement. The program licenses provided in this Amendment One are offered separately from any other proposal for consulting services you may receive or have received from Oracle and do not require you to purchase Oracle consulting services.

2.9 Provided that you comply with the delivery terms in the Delivery and Installation section, Oracle shall not invoice you for sales tax pursuant to California law based on the net license fees in section A for the programs delivered by electronic download; however, you agree to reimburse Oracle for any and all applicable sales tax arising from imposition of sales tax based on the net license fees for the program licenses listed in section 1.1 of this Amendment One. Oracle shall invoice you and you are required to pay any applicable taxes related to the net support fees (specifically Software Update License & Support fees) for the ordered technical support services listed in section 2.1 of this Amendment One.

**3. DELIVERY**

3.1 Oracle has made available to you for electronic download at the electronic delivery web site located at the following Internet URL: <http://edelivery.oracle.com/exempt> the programs listed in section 1.1 of this Amendment One. Through the Internet URL, you can access and electronically download to your California location the current production release as of the effective date below of the software and related program documentation for each program listed in section 1.1 of this Amendment One. You shall have 60 days from the effective date of this Amendment One to complete the download of the software and program documentation. Please be advised that not all programs are available on all hardware/operating system combinations. For current program availability please check the electronic delivery website. Oracle is under no further delivery obligation under this Amendment One, electronic or otherwise. You agree to execute and return the attached Certificate of Electronic Delivery simultaneously with the execution and return of this Amendment One. Should you require a replacement copy of the software or program documentation, such replacement copy shall also be delivered electronically. You shall not be entitled to any replacement copy in the form of tangible media for the software or the program documentation, other than updates provided by Oracle under technical support service if ordered. You acknowledge and agree that (a) you have not received any tangible media for the programs listed in section A as of the effective date and (b) any rights to receive media granted under the agreement shall not be applicable to or provided for the programs listed in section 1.1 of this Amendment One. Further, you acknowledge that the electronic download delivery method shall be applicable to Oracle's delivery obligations for the initial copy of the programs listed in section 1.1 of this Amendment One and shall not be applicable to any delivery of updates and/or technical support services ordered under this Amendment One.

**4. ORDER OF PRECEDENCE**

The parties agree that the terms of this Amendment One will prevail in the event of any inconsistencies with any terms of the ordering document executed on November 27, 2007.

Other than the amended terms set forth herein, the terms and conditions of the ordering document remain unchanged and in full force and effect.

<b>City and County of San Francisco</b>	<b>Oracle America, Inc.</b>
Signature <u>[Signature]</u>	Signature <u>[Signature]</u>
Name <u>Modique Zmuda</u>	Name <u>Douglas W. Doran</u>
Title <u>Deputy Controller</u>	Title <u>Director, License Contracts</u>
Signature Date <u>5-25-11</u>	Signature Date <u>5/24/2011</u>
<b>Effective Date</b> <u>May 22, 2011</u>	

**CERTIFICATE OF ELECTRONIC DELIVERY**

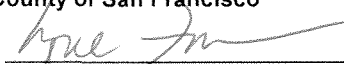
This Certificate of Electronic Delivery is executed as of the effective date set forth below by **City and County of San Francisco** ("you") and relates to the electronic delivery of certain software programs provided by Oracle America, Inc. ("Oracle"). This Certificate of Electronic Delivery shall be governed by the terms of the Oracle License and Services Agreement v071807, as amended, added or modified, between you and Oracle effective November 30, 2007 (the "Agreement").

As of the date of this Certificate of Electronic Delivery, you agree that Oracle has provided you with an Internet URL through which you can download all the programs provided in the Ordering Document between Oracle and you dated May 22, 2011 (the "Ordering Document"). You will have 60 days from the effective date of the Ordering Document to complete your download of the programs provided.

You agree that Oracle has completed all of the delivery responsibilities required by the Ordering Document and the Agreement and no additional shipment of the programs on tangible media (CD's, Disks, Tapes, etc.) shall be provided or is required.

The Effective Date of this Certificate of Electronic Delivery is 5-22-2011

**City and County of San Francisco**

Signature: 

Name: Monique Zmuda

Title: Deputy Controller