

1 [Agreement - Oracle America, Inc. - Authorizing Participation in Programs to Provide
2 Customer Feedback and Granting License to Use City's Feedback]

3 **Resolution authorizing the City's Chief Information Officer to enter a customer**
4 **participation agreement under which City employees will provide customer feedback to**
5 **Oracle America, Inc. with an indefinite term and which will grant to Oracle America, Inc.**
6 **a perpetual, irrevocable license to use the City's feedback for any purpose, including**
7 **the development, modification, marketing, or publicity of products or services, without**
8 **identifying the City or its employees in those materials.**

9
10 WHEREAS, City departments have entered into contracts with Oracle America, Inc.
11 ("Oracle") and affiliated entities to purchase and use software products, including PeopleSoft
12 applications; and

13 WHEREAS, As a result of these agreements, City officers and employees regularly use
14 and have extensive experience using Oracle products; and

15 WHEREAS, The City Chief Information Officer, intends to enter an agreement (the
16 "Participation Agreement") with Oracle under which employees of City departments will take
17 part in collaboration projects for the purpose of providing Oracle feedback on its products,
18 features, and services; and

19 WHEREAS, Under the Participation Agreement, City employees could be involved in
20 various focus groups convened by Oracle, including but not limited to a Customer Advisory
21 Board, Strategic and Industry-Specific User Councils, Financials Customer Advisory Board,
22 Human Capital Customer Advisory Board, Expense Management Focus Group, Payroll Focus
23 Group, and other focus groups or customer forums to provide feedback based on their
24 experiences using Oracle products in their capacity as City employees; and

1 WHEREAS, The City’s participation in providing feedback to Oracle under the
2 Participation Agreement will benefit the City by obtaining insight into Oracle's strategic
3 initiatives, influencing product roadmaps to benefit the City’s use of Oracle products, acquiring
4 best practices from peers and benchmarking against peers, participating in interactive
5 sessions and demos, interacting with Oracle executive management teams, and learning
6 about industry trends and thought leadership; and the license granted by the City to Oracle
7 will benefit Oracle by allowing Oracle to use the feedback of City employees without the
8 possibility that the City will claim that its employees’ feedback is the City’s property; and

9 WHEREAS, Many states, counties, cities, school districts, and public universities
10 around the country participate in Oracle focus groups or customer advisory boards that City
11 employees could join under the Participation Agreement; participants currently include the
12 States of Connecticut, Delaware, Montana, Tennessee, South Dakota, and New York, Bay
13 Area Rapid Transit, San Diego County, Spokane and King Counties in Washington, and the
14 Universities of Michigan, Maine, Utah and Georgia; and

15 WHEREAS, The Participation Agreement includes a license provision under which the
16 City will grant to Oracle a worldwide, royalty-free, non-exclusive, perpetual, and irrevocable
17 license to use, copy, and modify the feedback provided by City employees for any purpose,
18 including but not limited to incorporation or implementation of such feedback into Oracle
19 programs or services, and to display, market, sublicense, and distribute the feedback as
20 incorporated or embedded in any product or service distributed or offered by Oracle; and

21 WHEREAS, The Participation Agreement does not allow Oracle to publicly release City
22 employees’ feedback in a way that directly or indirectly connects the feedback with the City or
23 any of its employees; and

24 WHEREAS, The Participation Agreement has an indefinite term, and the City’s
25 continued participation will be within the discretion of the City Chief Information Officer; and

1 WHEREAS, The Participation Agreement includes additional provisions regarding the
2 participation of City employees providing feedback to Oracle and the confidentiality of certain
3 information provided by Oracle in connection with soliciting the feedback; and

4 WHEREAS, Charter, Section 1.101 provides that all rights and powers of the City and
5 County that are not vested in another officer or entity by the Charter shall be exercised by the
6 Board of Supervisors; and

7 WHEREAS, Administrative Code, Section 22A.4 defines the role and duties of the City
8 Chief Information Officer, but the neither Section 22A.4 nor any other section of the
9 Administrative Code vests in the Department of Technology or the City Chief Information
10 Officer the ability to enter perpetual licenses to allow third parties to use statements made by
11 City employees, including for the development, modification, marketing, or publicity of
12 products or services; and

13 WHEREAS, A copy of the Participation Agreement in substantially final form is
14 available in Board of Supervisors File No. 210283; now, therefore, be it

15 RESOLVED, That the Board of Supervisors hereby authorizes the City Chief
16 Information Officer to enter the Participation Agreement with Oracle including a license
17 allowing Oracle to use City employees' feedback and statements for any purpose including
18 the development, modification, marketing, or publicity of products or services; and, be it

19 FURTHER RESOLVED, That within 30 days of the Participation Agreement being fully
20 executed by all parties to provide Feedback as authorized in this Resolution, the Department
21 of Technology shall submit to the Clerk of the Board of Supervisors a completely executed
22 copy of the Participation Agreement for inclusion in File No. 210283.