

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

First Amendment

THIS AMENDMENT (this "Amendment") is made as of **April 24, 2016**, in San Francisco, California, by and between **YARDI SYSTEMS, INC.** ("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 renew Agreement for a period of three years unless earlier terminated by City at City's sole discretion;

WHEREAS, Approval for the Professional Services to be rendered pursuant to this Agreement was obtained when the Civil Service Commission approved PSC# 30573 - 15/16 on May 12, 2016;

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 Software as a Service Agreement dated **February 26, 2013** between Contractor and City.

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. Section 3(a). Section 3(a) "Term" of the Agreement currently reads as follows:

3(a) Term. This Agreement will commence on the Effective Date and shall remain in full force for three (3) years unless earlier terminated, with three (3) one year options to renew at Client's sole and absolute discretion. Yardi will invoice Client for Client's annual Fee approximately 60 days (and again at approximately 30 days if payment has not been received) prior to each Anniversary Date. Yardi additionally represents that Yardi's Voyager application software will provide multiple and periodic reminders that Client's annual Fee payment is due in advance of each Anniversary Date.

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

3(a) Term. This Agreement will commence on **April 25, 2013** until **April 24, 2019** unless earlier terminated. Yardi will invoice Client for Client's annual Fee approximately 60 days (and again at approximately 30 days if payment has not been received) prior to each Anniversary Date. Yardi additionally represents that Yardi's Voyager application software will provide multiple and periodic reminders that Client's annual Fee payment is due in advance of each Anniversary Date.

2b. Section 4(a). Section 4(a) "Fees" of the Agreement currently reads as follows:

4(a) Fees. Client agrees to pay Yardi the Fees in accordance with the payment terms set forth in Schedule A (Fee Schedule). Compensation shall be due and payable within 45 days of the date of invoice. In no event shall the amount of this Agreement exceed one-hundred and twenty-eight thousand five hundred and fifty dollars and no cents (\$128,550.00). The breakdown of costs associated with this Agreement is provided for in Schedule A (Fee Schedule). No charges shall be incurred under this Agreement nor shall any payments become due to Yardi until services required under this Agreement are received from Yardi and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. In no event shall City be liable for interest or late charges for any late payments.

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

4(a) Fees. Client agrees to pay Yardi the Fees in accordance with the payment terms set forth in Schedule A and A-1 (Fee Schedules). Compensation shall be due and payable within 45 days of the date of invoice. In no event shall the amount of this Agreement exceed **two hundred and twenty-eight thousand four hundred fifty four dollars and twenty eight cents (\$228,454.28)**. The breakdown of costs associated with this Agreement is provided for in Schedule A and A-1. No charges shall be incurred under this Agreement nor shall any payments become due to Yardi until services required under this Agreement are received from Yardi and approved by the San Francisco Public Utilities Commission as being in accordance with this Agreement. In no event shall City be liable for interest or late charges for any late payments.

2c. Section 18(j). Section 18(j) "Entire Agreement" of the Agreement currently reads as follows:

18(j) Entire Agreement. This document along with Appendix A, (Additional Terms and Conditions); Appendix B (Hosting Services; Data Center); Schedule A, (Fee Schedule); Schedule B (Service Level Agreement); Schedule C (Disaster Recovery Plan); and Schedule D (Scope of Work), incorporated herein as though fully set forth herein, together constitute the final, complete, and exclusive statement of the agreement between the parties pertaining to this Agreement's subject matter and supersedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those inducements, representations and warranties expressly set forth in this Agreement. This Agreement may be modified only as provided in section 18(1) (Modification).

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

18(j) Entire Agreement. This document along with Appendix A, (Additional Terms and Conditions); Appendix B (Hosting Services; Data Center); Schedules A and A-1, (Fee Schedules); Schedule B (Service Level Agreement); Schedule C (Disaster Recovery Plan); Schedule D (Scope of Work); and Schedule D-1 (As-Needed Scope of Work), incorporated herein as though fully set forth herein, together constitute the final, complete, and exclusive statement of the agreement between the parties pertaining to this Agreement's subject matter and supersedes all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those inducements, representations and warranties expressly set forth in this Agreement. This Agreement may be modified only as provided in section 18(1) (Modification).

2d. Appendix A, Section 22. Appendix A, Section 22 "SAS 70 Audit" of the Agreement currently reads as follows:

Appendix A, Section 22. SAS 70 Audit. During the Term of the Agreement, Contractor will use commercially reasonable efforts to provide, on the terms on which they are made available, the SAS 70 Type II Audit report ("Audit Reports") it receives from its hosting service provider described in Section 16(a) (Server Location) of the Agreement.

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

Appendix A, Section 22. SSAE 16 Audits. During the Term of the Agreement, Contractor will use commercially reasonable efforts to provide, on the terms on which they are made available, the SSAE 16 Audit report ("Audit Reports") it receives from its hosting service provider described in Section 16(a) (Server Location) of the Agreement.'

2e. Schedule A-1. Schedule A-1 (Fee Schedule) is hereby attached and incorporated to this Agreement as though fully set forth herein.

2f. Schedule D-1. Schedule D-1 (As-Needed Scope of Work) is hereby attached and incorporated to this Agreement as though fully set forth herein.

3. Effective Date. Each of the modifications set forth in Section 2 shall be effective on and after the date of this Amendment.

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.

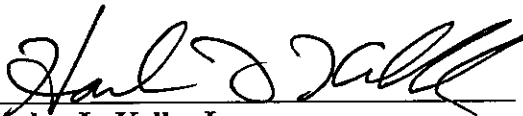
IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

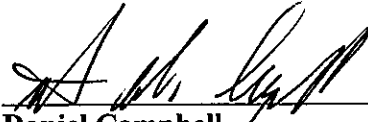
CITY

CONTRACTOR

Recommended by:

Yardi Systems, Inc.

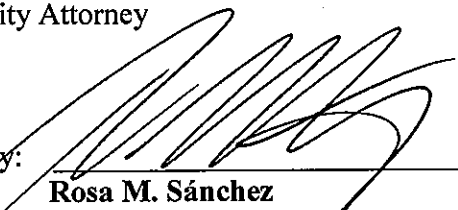

Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission

 06/09/2016
Daniel Campbell
Vice President
430 South Fairview Avenue
Goleta, CA 93117

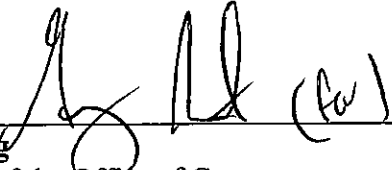
Approved as to Form:

City vendor number: 87382

Dennis J. Herrera
City Attorney

By: 
Rosa M. Sánchez
Deputy City Attorney

Approved:


Jaci Fong
Director of the Office of Contract
Administration, and Purchaser

Schedules:

- A-1 – Fee Schedule
- D-1 – As-Needed Scope of Work

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SCHEDULE A-1 (Fee Schedule)

Voyager SaaS Select Fee Schedule

Description	Unit of Measure (UOM)	Count	\$/UOM	Concession	Net				As-Needed	Contract Total
					\$/UOM	Year 4	Year 5	Year 6		
Voyager SaaS Select Property Management	DU	10	\$ 3,000.00	\$ (738.75)	\$ 2,261.25	\$ 22,612.50	\$ 22,612.50	\$ 22,612.50		\$ 67,837.50
Advanced Budgeting & Forecasting Remote Implementation/Training	DU	3	\$ 1,500.00	\$ -	\$ 1,500.00	\$ 4,500.00	\$ 4,500.00	\$ 4,500.00		\$ 13,500.00
Advanced Budget						\$ 4,000.00	\$ -	\$ -		\$ 4,000.00
Additional Test Webshares	each	1	\$ 1,200.00	\$ (1,200.00)	\$ -	\$ -	\$ -	\$ -		\$ -
Credit for change in end date						\$ (7,500.00)				\$ (7,500.00)
Potential CPI increase							\$ 944.50	\$ 1,122.28		\$ 2,066.78
Programming Services (As-Needed)									\$ 20,000.00	\$ 20,000.00
Total Fees Due						\$ 23,612.50	\$ 28,057.00	\$ 28,234.78	\$ 20,000.00	\$ 99,904.28

Additional Terms

1. Sales Tax: As applicable
2. Custom Programming: For as-needed custom reports to be paid at the rate of \$200.00/hour upon acceptance of custom reports by the City and County of San Francisco.

Remote Implementation/Training hours are included for the following:

- a. Advanced Budgeting & Forecasting: 20 hours (Fixed Fee paid at acceptance of implementation and training by the City and County of San Francisco. Client's annual application support hours shall be 56 hours/year (Included in the annual license fee for Voyager SaaS Property Management).

The not to exceed amount of \$20,000 listed above for Programming Services (as needed) may only be exceeded by a subsequent amendment to this Agreement. Because no Programming Services have been requested by City pursuant to this Amendment 1 of the Agreement as of the date of the execution of said Amendment 1, Contractor has not had an opportunity to scope the actual costs of such services. Once City submits a request for Programming Services, Contractor will undertake to determine the resources required and actual costs for the Programming Services requested by City. If Contractor determines that the actual costs for the Programming Services requested by city pursuant to this Amendment 1 to the Agreement exceeds the not to exceed amount of \$20,000 listed above, the parties agree to execute a subsequent amendment to this Agreement by which to increase the not to exceed amount of \$20,000 by an amount required to meet Contractor's actual cost for the Programming Services being requested by City. If such subsequent amendment has been fully executed by both parties, City agrees that it shall be responsible for paying any amount above the not to exceed amount of \$20,000 listed above for Programming Services.

SCHEDULE D-1
As-Needed Scope of Work

a. As-needed Programming Services. Pursuant to Section 14 (Programming Services) of the Agreement, City desires to have Contractor perform additional as-needed programming services. The City may at any time, by written request, submit an as-needed order to Contractor ("As-Needed Order") for Programming Services. In response to an As-Needed Order, Contractor may provide database customizations, user interface customization, database reports, database scripts and other programming services (collectively, "Programming Services"), as applicable based on the As-Needed Order requested by City. Contractor shall advise City of availability and submit to City a written cost estimate, the project schedule, the As-Needed Order Statement of Work or any other information related to the As-Needed Order and, in each case, as applicable. Any As-Needed Order requiring a price adjustment that results in an overall increase to the not to exceed As-Needed budget in Schedule A-1, shall be agreed to in writing by the Parties and executed in the same manner as this Agreement pursuant to Section 18(l) (Modification). All As-Needed Orders must be approved, in writing, by the Parties. Contractor shall not proceed with any work contemplated in any As-Needed Order until it receives written notification to commence such work from City. All Agreement As-Needed Orders and Agreement Modifications will become part of the Agreement, after written execution by the Parties.

b. Programming Services Terms. The Fees for Programming Services are set forth in Schedules A-1 (Fee Schedule). City will initiate Programming Service requests by providing written notice of the desired services to Contractor, and Contractor will advise City of Contractor's availability and schedule for performing the Programming Services. The Parties shall draft the scope of work for the Programming Services corresponding to the City's programming needs. Programming Services are subject to City's written acceptance of: (i) Contractor's schedule for meeting City's Programming Service request, and (ii) Contractor's Fees for such Programming Services.

c. User Acceptance Testing. Upon delivery of the Programming Services, City shall conduct user acceptance testing. Once testing is completed, City will either point out any Programming Services deficiencies to be corrected, or accept the Programming Services as meeting the functional requirements set forth in the agreed upon Programming Services documentation.

d. Deliverables License. Subject to City's full payment of all Undisputed Fees related to Programming Services, Contractor grants to City a non-exclusive, non-transferable (except as expressly provided in this Agreement), limited license for Designated Users to Use the Deliverables in connection with their Use of the Licensed Programs, Yardi Cloud and Yardi Cloud Services.