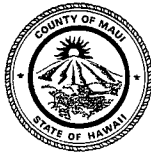


JOSIAH K. NISHITA
County Clerk



RECEIVED
MARGARET C. CLARK
Deputy County Clerk

2019 JUL 26 PM 1:54

OFFICE OF THE COUNTY CLERK **OFFICE OF THE**
COUNTY OF MAUI **COUNTY COUNCIL**
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

July 26, 2019

Honorable Keani Rawlins-Fernandez, Chair
Economic Development and Budget Committee
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Rawlins-Fernandez:

By letter dated July 9, 2019 (County Communication No. 19-293), the Director of Finance transmitted 125 contracts/grants for filing with the County Clerk.

At the July 19, 2019 Council meeting, the foregoing communication was filed; however, Contract C6298-1 was referred to your Committee at Councilmember Hokama's request. Transmitted is a copy of the contract.

Respectfully,

A handwritten signature in black ink, appearing to read "Josiah K. Nishita".

JOSIAH K. NISHITA
County Clerk

/jym

Enclosures

cc: Director of Council Services

AMENDMENT TO CONTRACT CERTIFICATION

I, **SCOTT K. TERUYA**, Director of Finance of the County of Maui, State of Hawaii, do certify that there is available appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the foregoing contract, i.e.

Appropriation Index	Title	Amount Required
<u>904015B</u>	<u>IT SERVICES</u>	<u>(6244) \$530,000.00</u>

Contract No. C 6298 WORKDAY, INC.

Amendment No. 1 Dated: 20 day of JUNE 2019

Extension of Contract to: No Time Extension

Original Amount	\$ 738,663.39
Prior Amends/CO	\$ 0.00
This Amendment	<u>\$ 530,000.00</u>
Total contract	<u>\$ 1,268,663.39</u>


SCOTT K. TERUYA
 Director of Finance

HCM/Payroll Replacement
 Project for MGMT
 Job #16-17/P-50
 ORDINANCE #4861 (FY2019)

FY 2019

jh *ang 6/20*
j25

MR
6/24/19

AMENDMENT NO. 1 TO CONTRACT NO. C6298

Department: Management – ITSD Division
Project Title: HCM/Payroll Replacement Project
Job No.: 16-17/P-50
Additional Certification Requested from County: \$530,000.00

This AMENDMENT NO. 1 TO CONTRACT is made and entered into by and between the COUNTY OF MAUI, a political subdivision of the State of Hawaii, whose business address is 200 South High Street, Wailuku, Maui, Hawaii 96793, hereinafter referred to as the "County", and WORKDAY, INC., a Delaware corporation, whose mailing address is 6110 Stoneridge Mall Road, Pleasanton, CA 94588, hereinafter referred to as the "Contractor". County and Contractor shall hereinafter be referred to collectively as the "Parties".

Source of Funds. The source(s) and availability of the funds for this Contract shall be as set forth in the Contract Certification signed by the Director of Finance of the County of Maui on or before the effective date of this Contract. Contract Certification shall be on file in the office of the Director of Finance of the County of Maui.

RECITALS

1. WHEREAS, the County and the Contractor entered into the following Contract with certified availability of funds in the amount indicated and time of performance as indicated:

AMENDMENT NO. 1 TO CONTRACT NO. C6298

CONTRACT NO.	DATE	ADDITIONAL CERTIFIED AMOUNT	TOTAL CERTIFIED AMOUNT	TIME OF PERFORMANCE/ EXTENSION	RENEWAL OPTION FOR MULTI TERM CONTRACT
C6298	6/29/2017	NOT APPLICABLE	\$738,663.39	6/27/2017-6/29/2022	None

2. WHEREAS, the above referenced contract ("Contract") is on file with the Director of Finance; and

3. WHEREAS, at the time the Parties first entered into the Contract, the Parties intended the Contract to require performance for a period of five years, but structured as a multi-term contract, with full funding for no less than the initial year of the five-year period of performance, and funding for the subsequent years to be made subject to appropriation and allotment, and performance of such services after the initial term and payment therefor to be subject to a mutual written agreement executed by the parties reflecting such additional funding.

4. WHEREAS, the Contract that the Parties initially executed should have accurately reflected the intent of the Parties, but the Contract, as opposed to the attachments thereto, was inadvertently structured as a single-term contract, and erroneously appeared as if the Parties were entering into a fully funded 5-year contract; and the Contract also inadvertently allowed the County to use Contractor's services in excess of use as authorized in the Order Forms and to do so without any written and

AMENDMENT NO. 1 TO CONTRACT NO. C6298

fully executed amendment, so long as the County was bound to pay for such otherwise unauthorized use.

5. WHEREAS, because of the essential nature of the services being performed by Contractor, although the contract amendment was never executed to allow continued performance after exhaustion of authorized funding, in order to protect the best interests of the County, the County continued to use Contractor services as if the amendment reflecting proper funding of the Contract was fully executed, and the Contractor continued to perform the services, as if the amendment has been properly executed by the Parties.

6. WHEREAS, the County and the Contractor should have identified and corrected the inadvertent oversight in the primary contract, and the Parties should have also timely executed an amendment to reflect additional funding for the second term of the multi-term contract;

7. WHEREAS, had the Parties entered into a Contract that was structured to be a multi-term contract, which did not contain a provision which allowed the County to use Contractor's services in excess of use as authorized in the Order Forms without any written and fully executed amendment (as described above), and had the amendment been timely executed by the Parties, the Contractor would have provided the same services it did provide, and the County would have had the Contractor provide the same services it did provide.

AMENDMENT NO. 1 TO CONTRACT NO. C6298

8. WHEREAS, the inadvertent errors in the Contract and the inadvertent errors in the implementation of the Contract did not prejudice the best interests of the County and in the end prevented any irreparable harm to the County from cessation of services by the Contractor; and

9. WHEREAS, the County hereby proposes to amend this Contract, *nunc pro tunc*, for the services provided and to be provided by the Contractor, as if the Contract, as amended herein, had been in effect from the beginning and as if the amendment had been entered in a timely manner.

NOW, THEREFORE, the Parties mutually agree to amend the Contract as follows:

1. As set forth below, the Parties agree that this is a multi-term contract extending over more than one fiscal period with a total estimated not-to-exceed amount of \$2,716,672 but funds for which Contract were available for only the initial fiscal period in the amount of \$738,663.39; the contractual obligation of both parties in each fiscal period succeeding the first shall be subject to appropriation and allotment, and availability of funds, and execution of a written amendment to extend the Contract accordingly.

2. The total not-to-exceed amount of the Contract is hereby increased by the amount of additional certification requested as set forth herein, subject to appropriation and inclusive of all taxes.

AMENDMENT NO. 1 TO CONTRACT NO. C6298

CONTRACT OR AMENDMENT NO.	DATE	ADDITIONAL CERTIFIED AMOUNT	TOTAL CERTIFIED AMOUNT	TIME OF PERFORMANCE/ EXTENSION	RENEWAL OPTION FOR MULTI TERM CONTRACT
C6298	6/29/2017	NOT APPLICABLE	\$738,663.39	6/27/2017-6/30/2018	May be extended for four (4) additional terms of one year each, through June 30, 2022, subject to appropriation and allotment
Amendment No. 1	Date of full execution of Amendment No. 1	\$530,000.00	\$1,268,663.39	7/1/2018-6/30/2019	May be extended for three additional terms of one year each, through June 30, 2022, subject to appropriation and allotment.

3. The fee or compensation schedule as set forth in the Amended Proposal is hereby added to the Compensation provision of the Contract. A copy of said document is maintained and on file in the office of the Director of Finance of the County of Maui and incorporated herein by reference and hereby made a part of the Contract.

4. The Contract and the Amendment(s) thereto listed above shall be hereafter collectively referred to as the "Contract"; and

5. Paragraph 3, Compensation and Payment Schedule, of the Contract is hereby amended by deleting the clause "without paying for such use" in the second sentence and replacing it with "without a written amendment signed by the Parties authorizing use in excess of the limits stated in the Order Forms."

AMENDMENT NO. 1 TO CONTRACT NO. C6298

The entire Contract, as amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties execute this Amendment by their signatures, on the dates below, to be effective as of the date of last signature hereto.

[EXECUTION PAGES TO FOLLOW]

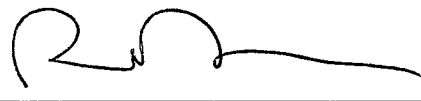
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CONTRACTOR EXECUTION PAGE

I hereby represent and warrant that I have the legal right and authority to execute this Contract on behalf of the Contractor.

CONTRACTOR:

WORKDAY, INC.

By  _____
(Signature)

Rebyrne D. Sisco
(Print Name)

Its CFO
(Title)

Date 6/14/19

Approved as to Legal Form by:

Jill Keller
Jill Keller (Jun 14, 2019)

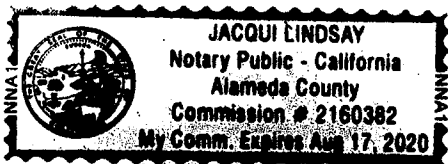
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A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

Subscribed and sworn to (or affirmed) before me on this 14th
day of June, 2019, by Robynne
Sisco

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in cursive script, appearing to read "Jacquie Lindsay", written over a horizontal line.

COUNTY EXECUTION PAGE

COUNTY OF MAUI

By 
SCOTT K. TERUYA
Its Director of Finance


Date JUN 24 2019

REVIEWED AND APPROVED:
Department of Management

By: 
SANDY BAZ
Managing Director

Date 6/19/19

APPROVED AS TO FORM
AND LEGALITY:


Deputy Corporation Counsel
County of Maui

Date 6.18.19

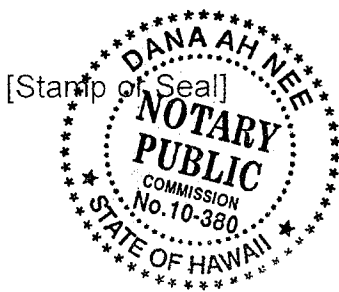
2018
Workday C6298 Amd 1

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STATE OF HAWAII)
COUNTY OF MAUI) SS.

On this 24th day of June, 2019, before me appeared SCOTT K. TERUYA, to me personally known, who being by me duly sworn, did say that he is the Director of Finance of the County of Maui, a political subdivision of the State of Hawaii, and that the seal affixed to the foregoing instrument is the lawful seal of the said County of Maui, and that the said instrument was signed and sealed on behalf of said County of Maui pursuant to Section 9-18 of the Charter of the County of Maui; and the said SCOTT K. TERUYA acknowledged the said instrument to be the free act and deed of said County of Maui.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Dana Ah Nee
Notary Public, State of Hawaii
Print Name: DANA AH NEE
My commission expires: NOV 14 2022

NOTARY PUBLIC CERTIFICATION			
Doc. Date:	<u>JUN 24 2019</u>	# Pages:	<u>11</u>
Notary Name:	<u>DANA AH NEE</u>	Judicial Circuit:	<u>2nd</u>
Doc. Description:	<u>Amendment no. 1 to contract</u>		
	<u>no. C0298</u>		
Notary Signature:	<u>Dana Ah Nee</u>		
Date:	<u>JUN 24 2019</u>		

