

**RESPONSE TO COUNCIL QUESTIONS RE: 8/27/19 CITY COUNCIL AGENDA
- Supplemental Response -**

Agenda Item #: 4

Title: Award a Contract to Sierra-Cedar, Inc. in the amount of \$4,025,000 for Implementation Services for an Oracle Cloud Enterprise Resource Planning System (F19-221)

Council Question: How much has Sunnyvale paid to Cherry Road under the agreement approved by Council in August 2018?

Council Question: Can the City Attorney advise Council on the merits of litigation against a Cherry Road so as to recover some/all of the monies previously paid.

Staff Response: These two questions are interrelated and a joint response is provided below.

The City's Project Team made the determination that it was in the best interest of the City to enter negotiations with Cherry Road in the context of the City terminating the Agreement for convenience and to resolve any amounts owed to Cherry Road for work and deliverables they had provided under the Agreement. At the time this decision was made the City had paid Cherry Road a little over \$1.2M for deliverables provided under the Agreement. In addition, Cherry Road submitted an invoice to the City for unpaid deliverables, which the City negotiated down to approximately \$157,000 from the invoiced amount of \$441,000. Upon the parties reaching an agreement as to monies owed to Cherry Road, the City terminated the Agreement for convenience, except for two years of licenses for the Oracle Fusion product to be purchased through Cherry Road. The total amount paid to Cherry Road is \$1,321,344; not including the Oracle licensing subscription. The above process was determined to be the most efficient and prudent way to terminate our relationship with Cherry Road and to facilitate the City expeditiously proceeding with searching, evaluating, selecting and awarding a contract with a new implementer so that the project could be completed within the time constraints for transitioning to a new ERP system.