

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: MANAGEMENT INFORMATION SERVICES
Urgent Routine *Sum*
CEO Concurs with Recommendation YES NO
(Information Attached)

BOARD AGENDA # *B-7
AGENDA DATE February 27, 2001
4/5 Vote Required YES NO

SUBJECT: APPROVAL OF A CONTRACT WITH TRIDENT SERVICES, INC FOR SYSTEMS SUPPORT FOR THE COUNTY IBM MAINFRAME COMPUTER.

STAFF
RECOMMEN-
DATIONS:

1. APPROVE THE CONTRACT FOR TECHNICAL SUPPORT SERVICES TO BE PROVIDED BY TRIDENT SERVICES, INC.
2. AUTHORIZE THE INTERIM DIRECTOR OF MANAGEMENT INFORMATION SERVICES TO SIGN THE CONTRACT ON THE COUNTY'S BEHALF.

FISCAL
IMPACT:

This is a time and materials contract with a total expenditure limit over a twelve-month period not to exceed \$179,400. The amount for this fiscal year totals approximately \$59,800. This amount will be funded within existing appropriations. The balance of the contract will be considered as part of the proposed budget for fiscal year 2001-2002.

BOARD ACTION

No. 2001-139

On motion of Supervisor Caruso, Seconded by Supervisor Simon,
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended

Motion:

Christine Ferraro

File No.

Approval of a contract with Trident Services, Inc. for systems support for the County IBM mainframe.

PAGE 2

DISCUSSION:

International Business Machines (IBM) system programmer resources required for the continued operation of the County IBM mainframe computer have become difficult to retain due to the challenges involved in procuring such highly trained and competitively recruited personnel needed to properly staff computer operations. The risk of not having staff or services available to meet this need is critical to continued operation of mainframe-supported County department applications such as the Court Information System, the District Attorney Information System, Community Services Agency applications and the Sheriff Custodial and Records System.

In an effort to control cost and yet retain the needed services, until such time that the County has IBM system programmer resources available to meet the requirements, it is recommended that Management Information Services (MIS) contract with Trident Services, Inc. Trident Services provides professional system programming services to support IBM mainframe computer operations as its core business and it is positioned and staffed to provide such service to (MIS). Due to constraints discussed above, the procurement of such outside vendor services would not compete with the availability of such resources within County personnel staffing. It is not uncommon for organizations and agencies to procure IBM mainframe systems programmer resources through the use of outside contractors.

This contract will allow MIS to call upon Trident Services, Inc. for systems programmer support to the County (IBM) Mainframe computer. Included in this support function are loading and installing new operations system software and utilities, configuration changes, and monitoring and fine-tuning the system for performance. It is estimated that systems demands would generally require about 100 hours of support time per month at \$100.00 per hour. Any time

Approval of a contract with Trident Services, Inc. for systems support for the County IBM mainframe.

Page 3

above 100 hours would be billed at a rate of \$150.00 per hour. The contract allows for additional funds to cover situations that arise because of the need to respond to emergency problems as well as installation of new releases of operating system releases, which cannot always be anticipated. The term of this contract is one year with a termination clause that allows the County to discontinue these services with one month's notice.

POLICY ISSUE: The Board of Supervisors must approve contracts in excess of \$100,000. Approval of this contract will allow MIS to provide support for this system and is consistent with the Board's policy of efficient government operations.

STAFFING IMPACT: Existing MIS staff will be used to implement this contract.

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

This MASTER AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into by and between the COUNTY OF STANISLAUS ("County") and Trident Services, Inc. ("Consultant"), on the day and year that the Chair of the Board of Supervisors signs and dates this Master Agreement (the "Agreement").

INTRODUCTION

WHEREAS, the County has a need for the professional services of International Business Machines (IBM) mainframe systems programmers, which are unavailable from within County personnel resources, including from within the staff of the County Management Information Services department, and including from within the staff of any of the other County department technical staff, and

Whereas, the County does have classifications in the human resources staffing structure for IBM mainframe systems programmers, but due to the extreme difficulty in procuring such highly trained and competitively recruited personnel in the State of California, and the resulting very high compensation such personnel command in a competitive market for their services, and

Whereas, the use of the term "programmer" in the "systems programmer" title is a custom developed within the computer industry at large, and actually does not refer to "programming" as performed by County employee programmers, which develop code that instructs the performance of computing machinery, but instead, "systems programmers" perform the function of, 1) loading and installing new software and software upgrades onto IBM mainframe computers, and 2) change controls and settings of already existing software used by a mainframe computer to control the performance of that machine, and

Therefore, the procurement of such outside vendor resources would not compete with the availability of such resources within the County personnel staffing, and

Whereas, it is not uncommon for County governments and other public sector organizations and agencies to procure IBM mainframe systems programmer resources through the use of outside contractors that have the financial leverage, organization, and expertise to provides such system programmer services, as a practical alternative to hiring such competitively recruited resources to be County employees, and

WHEREAS, the Consultant is specially trained, experienced and competent to perform and has agreed to provide such services; and

WHEREAS, the County and the Consultant wish to execute one agreement that shall govern all professional services provided by the Consultant during the term of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK

1.1 The Consultant shall furnish to the County those services and work set forth in a "Scope of Services" separately approved for each project or task being provided by the Consultant, which Scope of Services are, by this reference, made a part hereof, attached as Exhibit A.

1.2 Each project added to and to be performed under this Agreement shall be separately approved by the parties. Each project where the cost of services does not exceed \$75,000 shall be approved by purchase order issued by the County Purchasing Agent or designee; projects greater than \$75,000 shall be approved by resolution of the Board of Supervisors for the County.

1.3 All documents, drawings and written work product prepared or produced by the Consultant under this Agreement, including without limitation electronic data files, are the property of the Consultant; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Consultant may copyright the same, except that, as to any work which is copyrighted by the Consultant, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.

1.4 Consultant shall perform in a timely manner those services and work identified in each Scope of Services made a part of this Agreement. It is understood by Consultant that the performance of these services and work will require the Consultant to perform the services and work in conformance with the schedule set forth in the applicable Scope of Services, if any, and, if there is no schedule, the hours and times for completion of said services and work are to be set by the Consultant; provided, however, that such schedule is subject to review by and concurrence of the County.

1.5 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any

proposal submitted by the Consultant and any reports or opinions prepared or issued as part of the work performed by the Consultant under this Agreement, Consultant makes no other warranties, either express or implied, as part of this Agreement.

1.6 If the Consultant deems it appropriate to employ a consultant, expert or investigator in connection with the performance of the services under this Agreement, the Consultant will so advise the County and seek the County's prior approval of such employment. Any consultant, expert or investigator employed by the Consultant will be the agent of the Consultant not the County.

2. CONSIDERATION

2.1 Unless otherwise provided in an approved Scope of Services for a project, the Consultant shall be compensated on a time and materials basis not to exceed a specified amount as provided in each Scope of Services approved by the parties.

2.2 Except as expressly provided in this Agreement or in an approved Scope of Services, Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 Unless otherwise provided in a Scope of Services approved by the parties, the Consultant shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay in full within 30 days of the date each invoice is approved by the County. A separate statement shall be provided for each Scope of Services approved by the parties. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.

2.4 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

3. TERM

3.1 The term of this Agreement shall be from the date of approval of this Agreement until terminated as provided in this Agreement or in a Scope of Services approved by the parties.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 Payment for performance by the Consultant shall be dependent upon the availability of appropriations by the County Board of Supervisors for the purposes of this contract. No legal liability on the part of the County for any payment may arise under this agreement until funds are made available and until the Consultant has received funding availability, which will be confirmed in writing. If funding for any fiscal year is reduced or deleted, or if the County loses funding for any reason, the County, in its sole discretion, shall have the option to either: (a) cause this Agreement to be canceled or terminated pursuant to applicable provisions of the Agreement; or (b) offer to amend the Agreement to reflect the reduced funding for this Agreement.

3.4 The County may terminate this Agreement, or any Scope of Service approved by the parties and made part of this Agreement, upon 30 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.5 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Consultant's business.

4. REQUIRED LICENSES, CERTIFICATES AND PERMITS

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to the County.

5. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Unless otherwise provided in this Agreement, Consultant/ shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant—not the County—

has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items. However, County agrees to provide the working space, desks, desktop personal computers, monitoring computer consoles connected to the mainframe, and IBM mainframe machine cycle time, necessary for use by Consultant's personnel when working onsite, which is customarily provided by the owner of the mainframe equipment, and which is required for operation of the mainframe computer by the systems programmers in connection with the performance of services described herein.

6. INSURANCE

6.1 Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.

6.1.4 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

6.3 The Consultant shall provide a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming Stanislaus County and its officers, officials and employees as additional named insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of the Consultant; (b) services, products and completed operations of the Consultant; (c) premises owned, occupied or used by the Consultant; and (d) automobiles owned, leased, hired or borrowed by the Consultant. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

6.4 The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees.

6.6 The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including,

without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.

6.9 Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Consultant begins performance of its obligations under this Agreement, Consultant shall furnish County with certificates of insurance and with original endorsements effecting coverage required by this Agreement, including, without limitation, those effecting coverage for subcontractors of the Consultant. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

7. DEFENSE AND INDEMNIFICATION

7.1 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Consultant or Consultant's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Consultant's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Consultant in contributing to such claim, damage, loss and expense.

7.2 Consultant's obligation to defend, indemnify and hold the County and its

agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend the Consultant and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607 (e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Consultant shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Consultant or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Consultant to assume the status of "generator," "owner," "operator," "arranger," or "transporter" under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Consultant.

8. STATUS OF CONSULTANT

8.1 All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Consultant. It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to County only for the requirements and results specified in this

Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

8.4 Consultant is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

8.6 It is understood and agreed that as an independent contractor and not an employee of County, the Consultant and the Consultant's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.7 It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

8.8 As an independent contractor, Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. RECORDS AND AUDIT

9.1 Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. CONFIDENTIALITY

The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

Consultant understands that it may have access to highly sensitive material and highly confidential material while performing the course and scope of the duties described. Consultant also understands that it may have access to copyrighted, legally protected, or proprietary software or materials while performing the course and scope of duties described. Consultant agrees that it will not copy, use in any manner, discuss or describe any of these materials with anyone or for any purpose. Consultant understands that misuse of the computer system may be a criminal offense, in addition to a breach of this contract, and that County will pursue and participate in any such criminal prosecution of Consultant.

Said agreement on nonuse or misuse of the above listed materials does not extend to the necessary copying or use for the duties described herein for the performance of this contract.

11. NONDISCRIMINATION

During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. ASSIGNMENT

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of County; provided, however, the work under this Agreement may be completed by a wholly owned subsidiary of the Consultant. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. NOTICE

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Department of Management Information Services
Attention: Director of Management Information Services
948 11th Street, Suite 34-N
Modesto, CA 95354

To Consultant: Trident Services, Inc.
1260 41st Avenue, Suite K
Capitola, CA 95010
Attention: Tim Humphreys

14. WAIVER OF DEFAULT

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

15. CONFLICTS

Consultant agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. SEVERABILITY

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. AMENDMENT

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. ENTIRE AGREEMENT

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. ADVICE OF ATTORNEY

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. CONSTRUCTION

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. GOVERNING LAW AND VENUE

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action

brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

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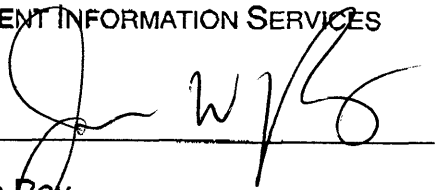
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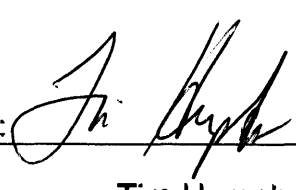
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year that the Acting Director of the Department of Management Information Services signs and dates this Master Agreement (the "Agreement").

COUNTY OF STANISLAUS

TRIDENT SERVICES, INC.

DEPARTMENT OF
MANAGEMENT INFORMATION SERVICES

By: 
James Ray
Acting Director

By: 
Tim Humphreys
President:

"Consultant"

Date: 3-1-01

Consultant's Taxpayer Identification
Number: 94-2501402

APPROVED AS TO FORM:
COUNTY COUNSEL
MICHAEL H. KRAUSNICK

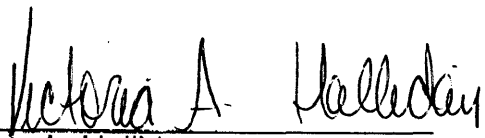
By: 
Victoria Halliday
Deputy County Counsel

EXHIBIT A

PROJECT NO. 01-1

A. TERMS AND CONDITIONS

Except as hereinafter provided, the services provided by the Consultant under this Project shall be subject to the terms and conditions set forth in the MASTER AGREEMENT FOR PROFESSIONAL SERVICES made and entered into by and between the COUNTY OF STANISLAUS ("County") and TRIDENT SERVICES, INC. ("Consultant"), on the day and year that the Chair of the Board of Supervisors signs and dates the Master Agreement (the "Agreement").

B. SCOPE OF WORK

The Consultant shall provide consulting, systems programming, maintenance, and support services for the IBM mainframe Operating System 390 (OS/390) and related operating systems programs and products used by the County to operate the IBM Enterprise Server 9000 (ES9000) mainframe computer which the County owns. The OS/390 operating system is a complex set of programs which is leased from IBM and is required for the operation of the mainframe computer. The Consultant will provide services under this Agreement as defined below:

- 1) One qualified systems programmer will be provided in Modesto at the County Management Information Services (MIS) site for one day each month to apply any maintenance requested by the County.
- 2) One qualified systems programmer will participate in biweekly ES9000 meetings via speakerphone. The "ES9000 meetings" are defined as meetings that are held biweekly, which are attended by County MIS staff that use the mainframe in some manner to provide services to MIS customers, and which is held to discuss problems related to the operation of the mainframe computer and to plan all manner of activities related to the mainframe operation. "Participate" is defined as listening in on the meeting via speakerphone, responding to questions addressed at the meeting to the systems programmer regarding the operation of the mainframe computer, and returning to the County answers, via telephone, internet, or hard copy written documentation, to questions that require research and which cannot be replied to at the meeting.
- 3) On call OS/390 systems programming support will be provided on a 24 hour by 7 day basis. The consultant will provide console monitors remotely linked to the mainframe on a 24 hour by 7 day basis for usage by the Consultant's systems programmers to analyze problems, view operations, and make appropriate changes per request from the

- County for on call support.
- 4) Upon request from the County, systems programming services for assistance with routine operational problems will be provided on site over and above the one scheduled monthly site visit.
 - 5) Other OS/390 related systems programming support, as mutually agreed upon in writing between Consultant and a designated County representative, which is above and beyond the ongoing 24 hour by 7 day on call support, requests for site visits for assistance with routine operational problems, and the one site visit scheduled each month. Specifically, this type of support would be for projects outside of the support provided for routine, ongoing mainframe operations, however will be included within the total hours and compensation specified in this agreement.
 - 6) The Consultant must obtain written approval from a County representative for any task work that will cause the total hours expended in any given calendar month to exceed one hundred (100).
 - 7) The services defined in this Exhibit A will begin on March 1, 2001 and continue through February 28, 2002.

C. COMPENSATION

The Consultant shall be compensated for the services provided under this Agreement as follows:

- 1) Services outlined in Paragraph B of this above named Exhibit A, Project 01-1, will be provided on a time and materials basis according to the following rate schedule.

Billable Hours Rendered per Month	Hourly Rate	Monthly Rate
First 100	\$100.00	\$10,000.00
Next 100 and up	150.00	

However, the total expenditure for this contract will not exceed \$179,400.00. This amount will be comprised of the first 100 hours of services rendered each month for the 12 months of the agreement for a total amount at the \$100.00 per hour rate of \$120,000, plus a total of 396 hours for services rendered at the \$150.00 per hour rate over the 12 months of the agreement for a total of \$59,400.00.

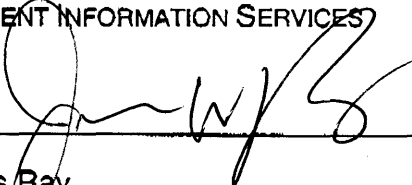
- 2) A detailed summary of all task work completed by each Consultant staff member will be presented monthly which will include: task description, requesting party, the number of hours spent on each task and associated totals by staff member and cumulative totals for the billing period.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year that the Acting Director of the Department of Management Information Services signs and dates this Master Agreement (the "Agreement").

COUNTY OF STANISLAUS

TRIDENT SERVICES, INC.

DEPARTMENT OF
MANAGEMENT INFORMATION SERVICES

By: 

James Ray
Acting Director

By: 

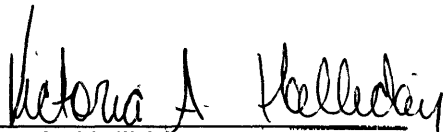
Tim Humphreys
President:

"Consultant"

Date: 3-1-01

Consultant's Taxpayer Identification
Number: 94-2501402

APPROVED AS TO FORM:
COUNTY COUNSEL
MICHAEL H. KRAUSNICK

By: 

Victoria Halliday
Deputy County Counsel