

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

DEPT: Assessor

BOARD AGENDA: 5.B.2
AGENDA DATE: June 12, 2018

SUBJECT:

Approval of the 2018-2019 Automated Property Tax System Maintenance Agreement with Megabyte Systems, Inc.

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0269

On motion of Supervisor Monteith, Seconded by Supervisor Chiesa
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended


2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST:


ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Assessor

BOARD AGENDA:5.B.2
AGENDA DATE: June 12, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Approval of the 2018-2019 Automated Property Tax System Maintenance Agreement with Megabyte Systems, Inc.

STAFF RECOMMENDATION:

1. Approve the 2018-2019 Megabyte Automated Property Tax Maintenance Agreement with Megabyte Systems, Inc. for \$304,850.

2. Authorize the Chief Executive Officer upon the recommendation of the Assessor, Auditor-Controller and the Treasurer-Tax Collector to sign the 2018-2019 Annual Maintenance Agreement with Megabyte Systems, Inc.

DISCUSSION:

The Megabyte automated property tax computer system processes changes and maintains all property characteristics, ownership, and assessed values. It computes and creates all tax bills and tracks tax payments. The system generates tax collection reports and develops tax allocation factors. It also apportions collected taxes to taxing agencies and generates reports needed to recover lost property tax revenue due to the Homeowner's Exemption program, the Williamson Act and other programs.

The main users of the property tax system are the Assessor, the Auditor-Controller, and the Treasurer-Tax Collector. Most other County and city departments and many private organizations, including title companies, also use the data in the system.

The annual maintenance agreement with Megabyte Systems, Inc. assures that the system's applications are maintained and updated with any changes mandated by legislation as well as changes to the Revenue and Taxation Code. This is an ongoing maintenance agreement that was initially approved by the Board of Supervisors on April 16, 2002.

POLICY ISSUE:

Board of Supervisors' authorization is being requested to allow the Chief Executive Officer to enter into a one-year maintenance/update agreement with Megabyte Systems, Inc. for the existing automated property tax system.

FISCAL IMPACT:

The cost for the 2018-2019 contract year is \$304,850. This is an increase of \$6,270, or 2.1 percent, from Fiscal Year 2017-2018. This cost is included in the Assessor's 2018-2019 Proposed Budget.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Boards' priority of *Delivering Efficient Public Services and Infrastructure* by providing for a maintained property tax administration system, which allows the Assessor, Auditor-Controller and Treasurer-Tax Collector to perform their mandated duties efficiently.

STAFFING IMPACT:

Existing staff will work with the vendor and address concerns as needed.

CONTACT PERSON:

Mercy Maya, Assistant Assessor-Administration (209) 525-6566

ATTACHMENT(S):

1. 2018-2019 Megabyte Maintenance Agreement

MEGABYTE PROPERTY TAX SYSTEM MAINTENANCE AGREEMENT (MPTS)

THIS SUPPORT AGREEMENT, is for the term beginning July 1, 2018 and terminating June 30, 2019 by and between the COUNTY OF STANISLAUS, hereinafter referred to as the "County" and MEGABYTE SYSTEMS INC, whose mailing address is 2630 Sunset Blvd, Suite 100, Rocklin, California 95677 hereinafter referred to as the "Contractor".

1. The County hereby engages the services of the Contractor, and the Contractor agrees to serve County in accordance with the terms and conditions set forth herein.

2. Work. Contractor shall furnish all programming efforts required to support the maintenance of the STANISLAUS County Property System as outlined in Exhibit A of this agreement, "Scope of Service".

3. Price. In consideration of Contractor's fulfillment of the promised work, County shall pay Contractor a fixed price of \$25,404.11 per month. Support to County in excess of the terms of this agreement, as deemed necessary by County, will be billable to County at Contractor's standard hourly rate subject to advance written approval of County. If on-site support is required, travel time and expenses will be charged in addition to the hourly rate for work on-site. Travel reimbursements shall be in accordance with the County's travel policy.

4. Payments. All payments for compensation and reimbursement for expenses shall be made only upon presentation by CONTRACTOR to COUNTY of an itemized billing invoice in a form acceptable to the Stanislaus County Auditor which indicates at a minimum, CONTRACTOR'S name, address, Taxpayer Identification Number. CONTRACTOR shall submit invoices not more often than monthly to the Stanislaus County Assessor who, after review and approval as to form and content, shall submit the invoice to the Stanislaus County Auditor on the next available claims filing date following receipt.

5. Changes. Changes and modifications to this Agreement may only be made by prior written change order of County, accepted in writing by the Contractor, specifying such change(s) including adjustment(s) to price and delivery schedule (if any), as are agreed to by the parties hereto. In no case shall County pay for any extra work or material furnished except as previously agreed upon in such a written change order. The Contractor and the County shall determine whether any change or modification will cause a delay in Contractor completing all work and if so, the duration of such delay.

6. County's Responsibility to Provide. County will provide, at its own expense, access to Megabyte via Megabyte's network or via the Internet as long as it is at acceptable speeds (County minimum of T1 or business DSL speed).

7. No Waiver by County. Inspection of the work by the County, or the statement by any officer, agent, or employee of the County, prior to written acceptance of the work or any part thereof, indicating that the work or any part thereof complies with the requirements of this Agreement, or the County's payment for the whole or any part of the work, or any combination of these acts, shall not relieve the Contractor of obligation to fulfill this Contract as prescribed. Waiver of any provision of this Agreement by the County in any single instance shall not prejudice County's right to enforcement of all provisions of this Agreement in any other instance.

8. Hold Harmless. Contractor agrees to defend, indemnify, save and hold harmless the County, its officers, agents, and employees, from and against any and all claims and losses whatsoever accruing or resulting to any and all persons, firms or corporations for damage, injury or death as a result of negligence by Contractor in Contractor's performance of this Agreement.

9. Patent or Copyright Infringement.

A. Contractor represents that the materials and products produced hereunder do not violate others intellectual property rights (which include patent, copyright, trademark, trade secret or other proprietary right.) In the event a claim, cause of action, proceeding or other legal action should arise in which there are claims that the materials and/or products infringe or violate another's intellectual property rights, Contractor shall undertake to protect, defend, settle or resolve the proceeding at no cost, whatsoever, to County, including, but not by way of limitation, legal fees, disbursements, judgments, or the like. Contractor shall protect, defend and indemnify and hold County harmless, subject only to County giving Contractor prompt written notice of any such third party claim, cause of action or proceedings and rendering to Contractor any reasonable information, assistance or access to documents and materials required in the defense of any such cause of action.

B. Should the materials and/or products in Contractor's opinion, be likely or become the subject of a claim of infringement of a patent, copyright or trademark, Contractor may do any of the following: (1) obtain a legally binding right for County to use, at no cost to County, the material and/or product; (2) replace or modify the material and/or product so that it is non-infringing yet still complies with the Request for Proposal (RFP) and the Contract specifications; (3) repurchase the material and/or product by refunding all moneys paid by County to Contractor for the material and/or product less depreciation and reasonable costs for use and such other amounts as are mutually agreeable to County and Contractor.

10. Title to Work. Upon termination of this agreement for any reason title to, ownership of, and all applicable patents, copyrights and trade secrets in the MPTS software, shall

remain with the Contractor as owner/holder of such patents, copyrights, and trade secrets, who shall retain complete rights to market such product, and no such rights shall pass to County. However, County shall receive, at no additional cost, a perpetual license to use such products for its own use.

11. Source Code. Contractor shall place source code for the licensed software and any changes thereto, into a software escrow account. County shall have access to the source code in the event Contractor fails to fulfill its maintenance and support obligations, or in the event of bankruptcy, dissolution, or appointment of a receiver for Contractor. County shall be able to use the source code according to the terms of this Agreement, and must also be permitted to modify the code for its own use consistent with this Agreement. If the CONTRACTOR is sold to another company or private party, the COUNTY reserves the right to exercise the option to take immediate delivery of the latest version source code and documentation at no additional cost to the COUNTY.

12. Insurance. Contractor shall maintain, at Contractor's own expense during the term hereof, insurance with respect to Contractor's performance of this Agreement of the types and in the minimum amounts described generally as follows:

A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.

B. Comprehensive Public Liability Insurance or Comprehensive Liability Insurance (Bodily Injury and Property Damage) of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence (claim made).

C. Comprehensive Automobile Liability Insurance (Bodily Injury and Property Damage) on owned, hired, leased and non owned vehicles used in conjunction with Contractor's business of not less One Million Dollars (\$1,000,000) than combined single limit per occurrence (claim made).

13. Proof of Insurance. Simultaneous with the execution of this Agreement, proof of the aforementioned insurance shall be furnished by the Contractor to the County by certificates of insurance. Such certificates shall specify that County must be given written notice 30 days prior to the cancellation or modification of any such insurance.

14. Insurance in Force and Effect During Contract Period. The insurance specified above shall be in a form and placed with an insurance company or companies satisfactory to County, and shall be kept in force and effect until completion to the satisfaction and acceptance by County of all work to be performed by the Contractor under this Agreement.

15. Confidentiality. Confidential information is defined as all information disclosed to Contractor which relates to the County's past, present, and future activities, as well as

activities under this Contract. Contractor will hold all such information in trust and confidence. Upon cancellation or expiration of this Agreement, Contractor will return to County all written and descriptive matter which contains any such confidential information.

16. Independent Contractor. Contractor shall perform this contract as an independent contractor for all purposes. Contractor is not, and shall not be deemed, a County employee for any purpose, including worker's compensation. Contractor shall, at Contractor's own risk and expense, determine the method and manner by which the duties imposed on Contractor by this contract shall be performed; provided that County may monitor the work performed by Contractor; and provided further that Contractor shall observe and comply with all laws and rules applicable to County in performing the work. Contractor, not County, shall be responsible for Contractor's negligence and that of Contractor's agents and employees in performing the work. Contractor shall be entitled to none of the benefits accorded to a County employee. County shall not deduct or withhold any amounts whatsoever from the compensation paid to Contractor, including but not limited to amounts required to be withheld for state and federal taxes. Contractor alone shall be responsible for all such payments.

18. Termination. The County or Contractor may terminate this Agreement with 60 days written notice.

19. Notices. All notices provided for by this Agreement shall be in writing and may be delivered by deposit in the First Class United States mail, by certified, or by registered mail, postage prepaid. All notices appertaining to the provisions of this Agreement shall be addressed to Contractor's office located 2630 Sunset Blvd., Suite 100, Rocklin, California 95677. Notices to the County shall be addressed to Stanislaus County Assessor, 1010 Tenth Street, Suite 2400, Modesto, CA 95354-0847. Effective date of all notices shall permit a minimum of five (5) days for transit in the mail.

20. Waiver of Default. Waiver of any default by either party of 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.

21. 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 it is found in contravention of and 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.

22. 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.

23. Entire Agreement. This Agreement supersedes any and all other Agreements, ether 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.

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

25. 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 to terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

26. Governing Law and Venue. This Agreement shall be deemed to be made under, and shall be governed 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.

27. Insurance Requirements. See Exhibit B for insurance requirements.

County of Stanislaus



Jody Hayes
Chief Executive Officer

Contractor: Megabyte Systems, Inc



Sharon Zachte
President

Date: 6/12/18

Date: 05.22.18

APPROVED AS TO FORM;
STANISLAUS COUNTY COUNSE:

BY



Durdre McStrath

DATE: 5/29/18

EXHIBIT A

SCOPE OF SERVICE

MPTS maintenance support services

Contractor will provide the following maintenance support services:

- Hot line phone support for County's Assessor, Tax Collector and Auditor user staff, as required, concerning the operation of the property tax system – MPTS.
- Diagnosis of application problems and suggested solutions.
- Application software corrections as needed by system failure to meet system requirements. This does NOT include any fixes for problems arising through alteration of the database by means other than Megabyte personnel.
- New State mandated change to the application of property and tax assessment statutes.
- Enhancements/Upgrades to the application software at the discretion of Megabyte Systems.
- Installation/Setup of application stored procedures/triggers/database-scheduled tasks when necessary.
- MPTS application training classes:
 - Web training classes
 - Training materials will be posted on the Megabyte website
 - Some sessions may be offered in house for detailed hands-on training at no cost for the session (County will be responsible for travel expenses)
- Roll turnover & roll over support to accommodate County off-hour support if desired:
 - Megabyte will optionally offer (based on County needs) roll turnover/rollover of scheduled jobs leaving reports out at the County (balancing/review is the responsibility of County).
 - Megabyte will review for consistency and set up – completion of jobs i.e. ascertain correctness of control records, job setup, scheduling, conflicts.
 - Backup: 2nd copy of 601 rolls and tax rolls for 12-year history retention to be held by Megabyte if requested by the County. Primary backup of the 601 roll and related system backups are County responsibilities.
 - Assistance with balancing property and tax assessment programs.
 - Assistance with producing fixes (i.e. mass roll changes) to correct erroneous assessment or tax roll results, whether due to County or Megabyte actions. However, County is responsible for meeting statutory requirements and proper updating of the Megabyte Systems with all current data, such as tax rates. Assistance to fix problems caused by County failure to update base assessment data will be a billable item to the County.

County will provide, at it's own expense, access to Megabyte via Megabyte network or via the Internet as long as it is at acceptable speeds (County minimum of T1 or business DSL speed).

County must grant Megabyte full administrator rights (SA).

SQL server database support services

Contractor will provide the following SQL sever database services:

- Necessary tuning/routine maintenance/notification of service pack upgrades needed. (These must be ran by County personnel on the physical machine).
- General SQL maintenance.
- Monitoring of SQL logs for errors and corrective action.
- Daily batch job monitoring and fixes/notification of failures.
- Scheduling of overnight jobs.
- Installation upgrades to SQL versions when Megabyte upgrades the application software to a new version (Note: this does not include any cost associated with the purchase of SQL Server System Software – this cost is the responsibility of the County. Megabyte will install it and do any necessary property system upgrades). Megabyte determines the need to upgrade to a newer version of SQL.
- Rebuild database(s) if necessary due solely to SQL Server generated problems. (Exclusion: If the cause is failure by the user to detect operating system errors & take corrective action or notify Megabyte, then this activity will be billable to the County).
- SQL Support services are for the primary and inquiry (aka backup server) servers only.

County shall perform the following tasks:

- Ensuring the SQL Executive and SQL Server are running and restart if necessary.
- NT Server printer setup and documentation.
- Monitor disk space on NT Server.
- MPTS system backups.
- Network problems.
- Software/Hardware conflict issues.
- Install SQL Server service packs when notified to do so by Megabyte.
- Install MPTS service packs when notified to do so by Megabyte.

If on-site support is required travel time and expenses will be billable to County at the standard rate for Contractor.

EXHIBIT B

Insurance Required for Most Contracts

(Not for Professional Services or Construction Contracts)

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than One Million Dollars (\$1,000,000) per incident or occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under the Agreement Insurance Services Office (ISO) Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage and transportation related pollution liability.
3. **Workers' Compensation** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

Application of Excess Liability Coverage: Contractors may use a combination of primary, and excess insurance policies which provide coverage as broad as ("follow form" over) the underlying primary policies, to satisfy the Required Insurance provisions.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The County, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL and Auto policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in

connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (**at least** as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage **at least** as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Reporting

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

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the County.

Waiver of Subrogation

Contractor hereby grants to County a waiver of any right to subrogation (except for Professional Liability) which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

Acceptability of Insurers

Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current A.M. Best's rating of no less than A-VII, however, 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 Approved Surplus Line Insurers (LASLI) maintained by the California Department of Insurance.

Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided for **at least** five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

Verification of Coverage

Contractor shall furnish the County with a copy of the policy declaration and endorsement page(s), original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All **certificates and endorsements are to be received and approved by the County before work commences**. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Insurance Limits

The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors. Contractor's obligation to defend, indemnify and hold the County and its officers, officials, employees, agents and volunteers harmless under the provisions of this paragraph is not limited to or restricted by any requirement in the Agreement for Contractor to procure and maintain a policy of insurance.

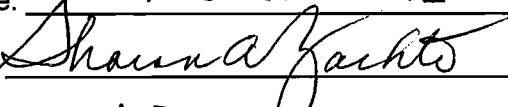
[SIGNATURES SET FORTH ON THE FOLLOWING PAGE]

_____ Exempt from Auto – I will not utilize a vehicle in the performance of my work with the County.

_____ Exempt from WC – I am exempt from providing workers' compensation coverage as required under section 1861 and 3700 of the California Labor Code.

I acknowledge the insurance requirements listed above.

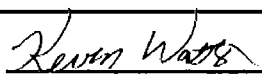
Print Name: SHARON A. ZACHTE Date: 05.22.18

Signature:  Date: 05.22.18

Vendor Name: MEGABYTE SYSTEMS, INC

For CEO-Risk Management Division use only

Exception: Clause and references to "subcontractors" in Exhibit B will not apply for vendor, Megabyte Systems Inc.

Approved by CEO-Risk Management Division:  Date: 5/1/2018