

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

June 2, 2020

FROM

TERRY W. THOMPSON, Director, Real Estate Services Department

SUBJECT

Contract with Robert Stephen Consulting, LLC for Professional Software Consulting Services and Licensing Fees, and Three Related End User License Agreements including Archibus System Software, MicroView and cadNOW/SpaceView

RECOMMENDATION(S)

1. Approve a five-year **Contract No. 20-324** with Robert Stephen Consulting, LLC for the period of June 2, 2020 through May 31, 2025, in an amount not to exceed \$767,529, for professional Business Partner consulting services, as required by Archibus and related licensing fees.
2. Approve End User License **Agreement No. 20-325** for use of Archibus System Software, proprietary to Archibus Inc., effective upon County of San Bernardino purchase of a perpetual license and execution of online agreement, and continuing as long as the software continues to be used and software updates continue to be licensed and added, continuing licensing fees to be included in professional services contract with Robert Stephen Consulting LLC.
3. Approve Amendment No. 1 to standard Archibus End User License Agreement, effective upon execution of Amendment No. 1, and continuing as long as the Archibus software continues to be used and software updates continue to be licensed and added, continuing licensing fees to be included in professional services contract with Robert Stephen Consulting LLC.
4. Approve End User License Agreement, as modified, for use of Microview Software, proprietary to Robert Stephen Consulting LLC, effective upon approval of the contract with Robert Stephen Consulting LLC for professional software consulting services and execution of online agreement, and continuing as long as the software is renewed on an annual basis, licensing fees to be included in professional services contract with Robert Stephen Consulting LLC.
5. Approve no cost Software License Agreement with Robert Stephen Consulting LLC, as modified, for use of cadNOW and/or SpaceView Software, effective upon approval of the contract with Robert Stephen Consulting LLC for professional software consulting services, and execution of online agreement, and continuing as long as the software is renewed on an annual basis.
6. Designate the Director of the Real Estate Services Department, or his or her designee, as authorized to execute the online software agreements for Archibus, MicroView and cadNOW and/or SpaceView, on behalf of the County of San Bernardino, subject to review by County Counsel.
7. Direct the Director of the Real Estate Services Department, or his or her designee to transmit copies of all documents relating to this agreement to the Clerk of the Board of Supervisors within 30 days of execution.

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(Presenter: Terry W. Thompson, Director, 387-5252)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Promote the Countywide Vision.

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of the recommended contract with Robert Stephen Consulting, LLC (RSC) for professional software consulting services and related licensing fees will not result in the use of Discretionary General Funding (Net County Cost). The total cost of the contract with Robert Stephen Consulting, LLC will be funded by Facilities Management (7301001000), Leasing and Acquisitions (7820001000) and Utilities (7770001000). The contract covers licensing for five (5) years at \$261,240 and Business Partner/Consultant fees not to exceed \$506,287 for a total contract amount of \$767,529. The costs were calculated with a 5% annual increase in license fees and annual 3% increase in consultant fees. Of this contract amount Facilities Management will pay \$331,074, Leasing and Acquisitions will pay \$249,735 and Utilities will pay \$186,720. The contract has been broken down by the not to exceed per fiscal year amount of which 2019-20 is for 3 months. Sufficient appropriation is included in the 2019-20 budgets and will be included in future recommended budgets.

Fiscal Year	FMD Consult	FMD License	LAD Consult	LAD License	UTL Consult	UTL License	Maximum Payment per Fiscal Year
2019/20	\$ 10,400	\$ 0	\$ 5,850	\$ 0	\$ 25,750	\$ 0	\$ 42,000
2020/21	\$ 36,050	\$ 25,232	\$ 25,750	\$ 20,707	\$ 70,600	\$ 1,339	\$ 179,678
2021/22	\$ 37,132	\$ 26,494	\$ 26,523	\$ 21,742	\$ 21,218	\$ 1,406	\$ 134,515
2022/23	\$ 38,245	\$ 27,818	\$ 27,318	\$ 22,830	\$ 21,855	\$ 1,476	\$ 139,542
2023/24	\$ 39,393	\$ 29,209	\$ 28,138	\$ 23,971	\$ 22,510	\$ 1,550	\$ 144,771
2024/25	\$ 30,431	\$ 30,670	\$ 21,736	\$ 25,170	\$ 17,389	\$ 1,627	\$ 127,023
							\$ 767,529

Approval of the End User License Agreements for Archibus, MicroView and cadNOW/SpaceView will not result in the use of Discretionary General Funding (Net County Cost). The licensing fees for Archibus and MicroView are included in the professional consulting services agreement with RSC. The licensing for cadNOW/SpaceView is provided by RSC at no cost.

BACKGROUND INFORMATION

The Real Estate Services Department (RESA), by and through Facilities Management, Leasing and Acquisitions and Utilities, utilizes the Archibus System software for County building inventory, real estate management, facilities management work requests and energy management systems. The Archibus System requires each client to utilize an approved

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Business Partner to enable continuity in the use of the Archibus System product and technical support. The Business Partner is the technical/product expert and is required as a pass through for payment of the Archibus System software licensing.

RSC began serving as RESD's Archibus Business Partner in or about 2006. As a Business Partner, RSC has provided valuable services to RESD over an extended period of time, providing expert knowledge of Archibus software, back end coding, reports preparation, development of additional systems as provided by Archibus, etc. and processing licensing fees, thereby facilitating ongoing development and customization of the Archibus System for RESD. RESD now seeks to continue this highly beneficial and professional relationship with RSC, and recommends approval of a five-year contract for professional software consulting services and related licensing fees.

RESD utilizes additional software in conjunction with the Archibus System Software, namely MicroView and cadNOW/SpaceView. Microview is mobile technology utilized by Facilities Management to perform Building Condition Assessments and submit work requests in a WiFi environment. Microview is proprietary to RSC and the annual licensing fees are included in the professional services agreement with RSC. Spaceview is a web-based employee locator nestled within the firewall of a corporation. It is able to locate County owned and leased buildings in a geographical environment. cadNow is a web-based AutoCAD drawing viewer designed to provide fast drawing display. It is used to display occupancy, vacancy, room uses, departmental ownership and other specialized use cases. Both Spaceview and cadNOW are owned and operated by RSC, and provided to the County at no cost, as part of RSC's Business Partner environment.

There is also a need to formally approve currently applicable terms and conditions for the Archibus, MicroView and cadNOW/SpaceView software. RESD in conjunction with County Counsel has negotiated terms and conditions for MicroView and SpaceNow with RSC to eliminate nonstandard terms. RESD, in conjunction with County Counsel also has negotiated the Archibus terms and conditions in an effort to eliminate nonstandard terms. Amendment No. 1 to the Archibus End User License Agreement (EULA) represents the result of those negotiations.

Nonetheless, the Archibus EULA contains the following nonstandard provision for which RESD now seeks Board approval:

1. Though Archibus agreed to set governing law as that of California, it insisted on leaving venue open. Archibus expressed a concern the software may be used out of state and wanted to leave venue options open. The County standard venue provision requires venue to be in the County of San Bernardino.

The impact of this nonstandard term is as follows:

1. In the event of a dispute resulting in litigation, venue could be set outside of San Bernardino County and even outside of California. Litigating outside of San Bernardino and/or the State of California could result in inconvenience and higher costs for the County.

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RESD recommends approval of the above recommended agreements, including the non-standard venue provision, in order to allow RESD's continued professional relationship with RSC and use of the Archibus, MicroView and cadNOW/Spaceview software.

Continued use of the software may require execution of an online agreement, which must be submitted by an individual with full legal authority to bind the County. Approval of Recommendation No. 6 above will authorize the Director of RESD, or his or her designee, to accept the online agreement on behalf of the County.

PROCUREMENT

On May 21, 2002, (Item No. 74) the Board approved a consulting contract with Infotech Enterprises, Inc., for Archibus System Software and implementation services. In 2006 RESD and the Information Services Department (ISD) conducted a competitive process to select a new Business Partner for Archibus related services. RSC was one of five (5) authorized Archibus Business Partners provided for review, and was ultimately selected to service as the County's Archibus Business Partner. In February 2012, RSC was consulted to upgrade and enhance the existing Archibus system to a Commercial off the Shelf (COTS) version to eliminate issues the County had faced over the years. On November 27, 2012 (Item No. 56), the Board approved a noncompetitive purchase order with RSC for Phase I of the project to convert the existing Archibus to the COTS installation. On April 9, 2013 (Item No. 39), the Board authorized the Purchasing Agent to increase the purchase order from \$86,920 to \$252,088 for Phases II and III. On January 6, 2015 (Item No. 38), the Board authorized the Purchasing Agent to issue several noncompetitive purchase orders with RSC for various services directed at the continued development of the Archibus product for RESD. On July 28, 2015 (Item No. 65), the Board authorized the Purchasing Agent to increase Master Blanket Purchase Order No. 152369 with RSC and extend the expiration date for continued technical support and software licensing fees to facilitate the continued development of the Archibus product. On June 28, 2016 (Item No. 55), the Board authorized the Purchasing Agent to increase and extend Master Blanket Purchase Order No. 152369 with RSC for various continued services enabling the continued development of the Archibus product.

Master Blanket Purchase Order 152369 will expire on June 30, 2020. The total cost to date for use and support of the Archibus System is \$1,680,545. Archibus Software Systems requires continued use of a Business Partner to provide technical support and software subscription management. Given the time and money investment the County has made in developing the Archibus product, as facilitated by RSC's valuable services, it is in the County's best interest to continue its professional relationship with RSC. Failing to do so would result in inefficiency and detrimental interruption of County operations. With the inception of SAP, the County no longer issues Master Blanket Purchase Orders. As such, RESD recommends approval of a formal contract between the County and RSC, and formal approval of all currently applicable software licensing terms and conditions as set forth above.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Katherine M. Hardy, Deputy County Counsel, 387-5437) on May 1, 2020; Purchasing Department (Bruce Cole, Supervising Buyer, 387-2148) on May 7, 2020; Finance (Wen Mai, Principal Administrative Analyst, 387-4020) on May 8, 2020; and County Finance and Administration (Matthew Erickson, County Chief Financial Officer, 387-5423) on May 18, 2020.

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Record of Action of the Board of Supervisors
County of San Bernardino

APPROVED (CONSENT CALENDAR)

Moved: Dawn Rowe Seconded: Robert A. Lovingood

Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 2, 2020



cc: RESD- Norris w/agree for sign
Contractor- C/O RESD w/agree
File- w/agree
la 06/9/2020