

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes ___ No X)

Resolution authorizing the Chairman to sign a Personal Services Agreement with Dennis Patrick for specialized services to the Data Processing Department and approving a budget transfer for the agreement (\$5,000). During the vacancy of the Technical Services Director position, certain job duties must still be performed to maintain the integrity of the AS/400 system and to continue with necessary projects that have already begun. Funds will be available through salary savings in the Technical Services Director position.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board routinely approves Personal Service Agreements when necessary to accomplish or continue county projects and/or programs.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve Personal Services Agreement. Certain data processing duties may not be accomplished and could jeopardize the integrity and security of the county's computer system.

<p>COSTS: () Not Applicable</p> <p>A. Budgeted Current FY \$</p> <p>B. Total Anticipated Costs \$ 5,000</p> <p>C. Required Additional Funding \$</p> <p>D. Internal Transfers \$ 5,000</p> <p>SOURCE: () 4/5ths Vote Required \$</p> <p>A. Unanticipated Revenues \$</p> <p>B. Reserve for Contingencies \$</p> <p>C. Source Description: _____</p> <p>Balance in Reserve for Contingencies ,if approved: _____</p>	<p>SPECIAL INSTRUCTIONS:</p> <p>List the attachments and number the pages consecutively:</p> <p>Personal Services Agreement</p> <p>Budget Transfer</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>CLERKS USE ONLY:</p> <p>Res. No. <u>01-353</u> Ord. No. _____</p> <p>Vote - Ayes: _____ Noes: _____</p> <p>Absent: _____ Abstained: _____</p> <p>() Approved () Denied</p> <p>(<input checked="" type="checkbox"/>) Minute Order Attached () No Action Necessary</p> <p>The foregoing instrument is a correct copy of the original on file in this office</p> <p>Date: _____</p> <p>ATTEST: _____</p> <p>MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California</p> <p>BY: _____</p> <p>Deputy</p>	<p>ADMINISTRATIVE OFFICER'S RECOMMENDATION:</p> <p>This item on agenda as:</p> <p>_____ Recommended</p> <p>_____ Not Recommended</p> <p>_____ For Policy Determination</p> <p>_____ Submitted with Comment</p> <p>_____ Returned for Further Action</p> <p>Comment: _____</p> <p>CAO's Initials: <u>GI</u></p>



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

DOUG BALMAIN, CHAIRMAN

ROBERT C. STEWART, VICE-CHAIRMAN

PATTI A. REILLY

GARRY R. PARKER

BOB PICKARD

DISTRICT II

DISTRICT III

DISTRICT I

DISTRICT IV

DISTRICT V



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: GREG ITURRIA, County Administrative Officer
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*
SUBJECT: Personal Service Agreement with Dennis Patrick
Resolution No. 01-353

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on December 11, 2001

ACTION AND VOTE:

Authorize the Chairman to Sign a Personal Services Agreement with Dennis Patrick for Specialized Services to the Data Processing Department and Approve a Budget Transfer for the Agreement (\$5,000) (County Administrative Officer)

BOARD ACTION: (M)Pickard, (S)Reilly, Res. 01-353 adopted with the change suggested by County Counsel to modify Section 3.01 for services to be provided on an "as needed" basis, and with the contract to only be invoked by the County Administrative Officer/Ayes: Reilly, Balmain, Parker, Pickard; Excused: Stewart.

cc: Jeff Green, County Counsel
Ken Hawkins, Auditor
Mary Hodson, Staff Analyst
File

AGREEMENT

PERSONAL SERVICE AGREEMENT

THIS AGREEMENT is entered into on the most recent date of execution below by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as "**COUNTY**", and Dennis Patrick, hereinafter referred to as "**CONTRACTOR**", for services to be provided to **COUNTY**.

WITNESSETH:

WHEREAS, COUNTY is in need of specialized services to be provided to the County Data Processing Department, and

WHEREAS, CONTRACTOR is qualified and desires to provide specialized services to the County Data Processing Department;

NOW THEREFORE, in consideration of the sums to be paid hereunder and the mutual covenants and conditions hereinafter contained, the **PARTIES** hereto agree as follows:

ARTICLE 1. TERM OF CONTRACT

Section 1.01. This **AGREEMENT** shall become effective on December 1, 2001 and shall terminate on January 15, 2002, unless terminated in accordance with the provisions of Article 7 of this **AGREEMENT**.

ARTICLE 2. INDEPENDENT CONTRACTOR STATUS

Section 2.01. It is the express intention of the **PARTIES** that **CONTRACTOR** is an independent **CONTRACTOR** and not an employee, agent, joint venturer or partner of **COUNTY**. Nothing in this **AGREEMENT** shall be interpreted or construed as creating or establishing the relationship of employer and employee between **COUNTY** and **CONTRACTOR** or any employee or agent of **CONTRACTOR**. Both **PARTIES** acknowledge that **CONTRACTOR** is not an employee for state or federal tax purposes. **CONTRACTOR** shall retain the right to perform services for others during the term of this **AGREEMENT**.

ARTICLE 3. SERVICES TO BE PERFORMED BY CONTRACTOR

Section 3.01. CONTRACTOR agrees to perform the services as described on Exhibit "A" attached hereto, on an as needed basis as determined by the County Administrative Officer.

Method of Performing Services

Section 3.02. CONTRACTOR will determine the method, details, and means of performing the above-described services. **COUNTY** shall not have the right to, and shall not, control the manner or determine the method of accomplishing **CONTRACTOR'S** services.

ARTICLE 4. COMPENSATION

Section 4.01. In consideration for the services to be performed by **CONTRACTOR**, **COUNTY** agrees to pay **CONTRACTOR**:

The sum of FIFTY DOLLARS per hour (\$50.00) for services as described above. The total sum to be paid to **CONTRACTOR** includes all labor, materials, travel and other expenses to be incurred by **CONTRACTOR** in the performance of the services described herein. Payment shall be made upon submission of a formal claim approved by the County Administrative Officer, as follows:

Total sum to be paid upon completion of services,
or

Incremental payments based on the following schedule:
As invoiced.

Invoices

Section 4.02. CONTRACTOR shall submit invoices for all services being rendered from the **CONTRACTOR** to the **COUNTY**.

Date for Payment of Compensation

Section 4.03. Payment shall be made within 45 days of invoices being submitted from the **CONTRACTOR** to the **COUNTY**.

Expenses

Section 4.04. CONTRACTOR shall be responsible for all costs and expenses incident to the performance of services for **COUNTY**, including but not limited to, all costs of equipment provided by **CONTRACTOR**, all fees, fines, licenses, bonds or taxes

costs of doing business. COUNTY shall not be responsible for any expense incurred by CONTRACTOR in performing services for COUNTY.

ARTICLE 5. OBLIGATIONS OF CONTRACTOR

Tools and Instrumentalities

Section 5.01. CONTRACTOR will supply all tools and instrumentalities, required to perform the services under this AGREEMENT. CONTRACTOR is not required to purchase or rent any tools, equipment or services from COUNTY.

Section 5.02. COUNTY shall not provide working space, supplies, materials or other such support to CONTRACTOR in the performance of the services and tasks as described herein.

Indemnification of Liability

Section 5.03. CONTRACTOR shall indemnify and hold COUNTY harmless against any and all liability imposed or claimed, including attorney's fees and other legal expenses, arising directly or indirectly from any act or failure of CONTRACTOR or CONTRACTOR'S assistants, employees or agents, including all claims relating to the injury or death of any person or damage to any property.

Workers' Compensation

Section 5.04. CONTRACTOR shall provide Workers' Compensation insurance as required by the State of California for all services provided hereunder.

Assignment

Section 5.05. CONTRACTOR understands that COUNTY retained the services of CONTRACTOR because of CONTRACTOR'S reputation and expertise in his or her field and, therefore, neither this AGREEMENT nor any duties or obligations under this AGREEMENT may be assigned by CONTRACTOR without the prior written consent of COUNTY.

State and Federal Taxes

Section 5.06. As CONTRACTOR is not COUNTY'S employee, CONTRACTOR is responsible for paying all required state and federal taxes. In particular:

COUNTY will not withhold FICA (Social Security) from CONTRACTOR'S payments;

COUNTY will not make state or federal unemployment insurance contributions on behalf of CONTRACTOR;

COUNTY will not withhold state or federal income tax from payment to **CONTRACTOR**;

COUNTY will not make disability insurance contributions on behalf of **CONTRACTOR**;

COUNTY will not obtain workers' compensation insurance on behalf of **CONTRACTOR**.

ARTICLE 6. OBLIGATIONS OF COUNTY

Cooperation of County

Section 6.01. **COUNTY** agrees to comply will all reasonable requests of **CONTRACTOR** (and provide access to all documents reasonably) necessary to the performance of **CONTRACTOR'S** duties under this **AGREEMENT**.

ARTICLE 7. TERMINATION OF AGREEMENT

Termination on Occurrence of Stated Events

Section 7.01. This **AGREEMENT** shall terminate automatically on the occurrence of any of the following events:

1. Bankruptcy or insolvency of **CONTRACTOR**;
2. Death of **CONTRACTOR**.

Termination by County for Default of Contractor

Section 7.02. Should **CONTRACTOR** default in the performance of this **AGREEMENT** or materially breach any of its provisions, **COUNTY**, at **COUNTY'S** option, may terminate this **AGREEMENT** by giving written notification to **CONTRACTOR**.

Termination for Failure to Make Agreed Upon Payments

Section 7.03. Should **COUNTY** fail to pay **CONTRACTOR** all or any part of the compensation set forth in Article 4 of this **AGREEMENT** on the date due, **CONTRACTOR**, at the **CONTRACTOR'S** option, may terminate this **AGREEMENT** if the failure is not remedied by **COUNTY** within thirty (30) days from the date payment is due.

ARTICLE 8. GENERAL PROVISIONS

Notices

Section 8.01. Any notices to be given hereunder by either **PARTY** to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the **PARTIES** at the addresses appearing below, but each **PARTY** may change the address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after mailing.

COUNTY: Gregory G. Iturria, County Administrative Officer
 P.O. Box 784
 Mariposa, California 95338

CONTRACTOR: Dennis Patrick
 P.O. Box 1891
 Mariposa, California 95338

Entire Agreement of the Parties

Section 8.02. This **AGREEMENT** supersedes any and all agreements, either oral or written, between the **PARTIES** hereto with respect to the rendering of services by **CONTRACTOR** for **COUNTY** and contains all the covenants and agreements between the **PARTIES** with respect to the rendering of such services in any manner whatsoever. Each **PARTY** to this **AGREEMENT** acknowledges that no representations, inducements, promises, or agreements, orally 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. Any modification of this **AGREEMENT** will be effective only if it is in writing signed by the **PARTY** to be charged.

Partial Invalidity

Section 8.03. If any provision in this **AGREEMENT** is held by a court or competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

Attorneys' Fees


Section 8.04. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this **AGREEMENT**, the prevailing **PARTY** will be entitled to reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that **PARTY** may be entitled.

Governing Law

Section 8.05. This AGREEMENT will be governed by and construed in accordance with the laws of the State of California.

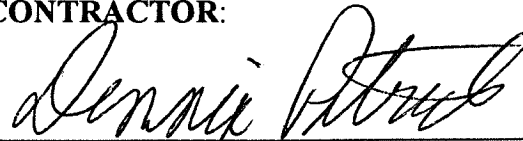
Executed at Mariposa, California, on the date and year first above written.

COUNTY:



DOUG BALMAIN, Chairman
Board of Supervisors
Date: 1/15/02

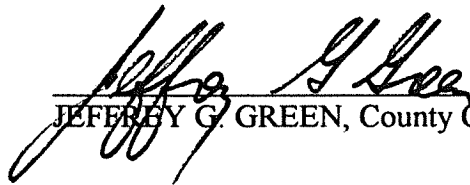
CONTRACTOR:



DENNIS PATRICK
Date: 11/28/01

Social Security or Taxpayer Identification
Number 550-90-3244

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



JEFFREY G. GREEN, County Counsel

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Dennis & Linda Patrick

November 28, 2001

Mr. Jeffrey Green, County Counsel
C/O Mariposa County

Jeff,

This letter is for the purpose of setting up the parameters of a "Personal Services Contract" between Mariposa County and Dennis Patrick.

The Scope of the work to be provided to the County is as follows:

1. Project Consultation and Implementation
 - A. AS/400 Security Audit
 - B. AS/400 Operating System Upgrade
 - C. AS/400 Job Accounting
 - D. Wireless Internet Access with Security
2. Department Organizational Assistance in preparation for new Tech. Svrs. Dir.
3. Other consultation as requested by the Data Processing Department.

The hourly fee will be \$50.00 per hour.



Dennis Patrick

"For God so loved the world that He sent His only begotten Son..." (Phil. 1:21)

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EXHIBIT A