RESOLUTION - ACTION REQUESTED 2014-408

MEETING: August 12, 2014

TO: The Board of Supervisors

FROM: Rick Benson, County Administrative Officer

RE: Interim Public Works Director

RECOMMENDATION AND JUSTIFICATION:
Approve an Agreement with Willdan Engineering for the services of Doug Wilson as Interim Public Works Director and authorize the Board of Supervisors Chair to sign the Agreement.

The Public Works Department is in need of experienced leadership while the search for a new Public Works Director is conducted. Mr. Wilson has the needed expertise, is available and has served in this capacity in the past.

The terms of the agreement call for payment of $165 per hour for Mr. Wilson's services plus $770 per month in living expenses. The contract has a not to exceed amount of $90,000. It is anticipated that Mr. Wilson will be working three days per week in this interim position.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has previously entered into agreements with Willdan Engineering to provide services when a Public Works Director vacancy occurred.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
If the interim director contract is not approved, management of the Public Works Department would become the responsibility of the various division heads. The department would be lacking any one individual responsible for overall operations.

FINANCIAL IMPACT:
The Agreement has a not to exceed amount of $90,000. Funding will need to be identified and included in the Recommended Budget for Fiscal Year 2014-15 either during Final Budget Hearings or during Final Budget Adjustments.

ATTACHMENTS:
Wilson Board PW Agreement 2014  (DOC)

CAO RECOMMENDATION
Requested Action Recommended
RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Lee Stetson, District I Supervisor
SECONDER: John Carrier, District V Supervisor
AYES: Lee Stetson, Merlin Jones, Kevin Cann, John Carrier
EXCUSED: Janet Bibby
EMPLOYMENT AGREEMENT

This AGREEMENT is entered into on the date last below written by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and Willdan Engineering, a subsidiary of Willdan Group, Inc., herein referred to as "CONTRACTOR," for services to be provided to Mariposa County.

WITNESSETH:

WHEREAS, COUNTY is in need of services to be provided to the Public Works Department, and

WHEREAS, CONTRACTOR is qualified and desires to provide services to the Public Works Department;

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the PARTIES hereto agree as follows:

1. CONTRACTOR agrees to provide the services described in Exhibit “A”, and to perform the tasks as set out therein, to COUNTY, commencing August 18, 2014 and terminating January 30, 2015.

2. COUNTY agrees to pay CONTRACTOR an hourly rate of ONE HUNDRED SIXTY FIVE DOLLARS ($165) per hour, for services described above. Payments will be made upon submission of an “HOURLY TIME SHEET,” and shall be submitted to the Auditor as prescribed by the Auditor’s monthly payment schedule. Payment, including expenses, shall not exceed NINETYTHOUSAND DOLLARS ($90,000).

3. In addition to the hourly rate listed in paragraph 2 above, COUNTY agrees to pay CONTRACTOR the sum of SEVEN HUNDRED SEVENTY DOLLARS ($770) per month for living expenses.

4. It is anticipated that CONTRACTOR will provide approximately 24 hours of services to COUNTY per week.

5. During the term of this Contract CONTRACTOR agrees to provide workers’ compensation insurance for Contractor’s employees and agents and agrees to hold harmless and indemnify COUNTY for any and all claims arising out of any injury, disability, or death of any of Contractor’s employees or agents.

6. In the event that CONTRACTOR or any employee, agent, or subcontractor of CONTRACTOR providing services under this Contract is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of COUNTY, CONTRACTOR shall indemnify, defend, and hold harmless COUNTY for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of CONTRACTOR or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of COUNTY.
7. As CONTRACTOR is not County’s employee; CONTRACTOR is responsible for paying all required state and federal taxes. In particular:
   a. COUNTY will not withhold FICA (Social Security) from Contractor’s payments;
   b. COUNTY will not make state or federal unemployment insurance contributions on behalf of CONTRACTOR;
   c. COUNTY will not withhold state or federal income tax from payment to CONTRACTOR;
   d. COUNTY will not make disability insurance contributions on behalf of CONTRACTOR;
   e. COUNTY will not obtain workers’ compensation insurance on behalf of CONTRACTOR.

8. Any notifications which need to be forwarded to a party to this AGREEMENT shall be provided as follows:

   COUNTY: County Administrative Officer  
P.O. Box 784  
Mariposa, CA 95338

   CONTRACTOR: Willdan Engineering  
2014 Tulare St., Suite 515  
Fresno, CA 93721

9. This AGREEMENT may be terminated with or without cause. CONTRACTOR may terminate this Agreement on two (2) weeks notice. In such circumstance, CONTRACTOR shall be reimbursed by COUNTY for the hours worked prior to termination in accordance with this AGREEMENT.

10. All material, literature, documentation, research, notes or calculations, whether completed or not, and regardless of when obtained, developed or otherwise acquired by CONTRACTOR as a result of this AGREEMENT, shall become the property of COUNTY and COUNTY shall retain all rights to dispose, print or publish, or otherwise utilize it as it deems appropriate.

11. COUNTY shall provide working space, supplies, materials and other such support, as can reasonably be provided to CONTRACTOR in the performance of the services and tasks as described herein. COUNTY shall reimburse CONTRACTOR for all authorized travel and other authorized expenses incurred
in the performance of the services and tasks as described herein, as prescribed by COUNTY policy.

12. It is understood that this AGREEMENT contemplates personal performance of Doug Wilson, P.E. No other person may be substituted by CONTRACTOR at any time without the express written consent of COUNTY.

13. This AGREEMENT supersedes any and all contracts, 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 contracts between the Parties with respect to the rendering of such services in any manner whatsoever. Each Party to this AGREEMENT acknowledges that no representatives, inducements, promises, or contracts, 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 contract, 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 and approved by the County as provided herein or as otherwise required by law.

13. 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.

14. 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 attorney's 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.

15. In the event that either COUNTY or CONTRACTOR shall at any time or times waive any breach of this AGREEMENT by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this AGREEMENT, whether of the same or any other covenant, condition or obligation.

16. This AGREEMENT and all matters relating to it shall be governed by the laws of the State of California and County of Mariposa and any action brought relating to this AGREEMENT shall be held exclusively in a state court in the County of Mariposa.
IN WITNESS WHEREOF, the PARTIES hereto have hereunto executed this AGREEMENT.

CONTRACTOR

Signature

DATE: 8/1/14

COUNTY OF MARIPOSA

Kevin Cann
Chairman, Board of Supervisors

DATE: 8/12/14

APPROVED AS TO FORM:

Steven W. Dahlem, County Counsel
EXHIBIT A

Plans, organizes, administers and supervises all programs and activities of the Public Works Department and its divisions, including the Road Division, County Engineer / Surveyor Office, Solid Waste Division, County Airport, Building Maintenance Division, Vehicle Maintenance Division, and Special Districts.

Develops, recommends, implements and evaluates cost-effective, innovative department programs, policies and procedures.

Interprets and provides guidance regarding goals and objectives, policies and procedures, to department personnel.

Confers with department staff, County staff and administrators, and the Board of Supervisors on operational and administrative problems, and helps to develop solutions.

Estabishes, within County policy, appropriate staffing levels; allocates resources accordingly.

Prepares and administers department budgets; reviews and approves expenditures.

Selects, trains, supervises, motivates and evaluates the performance of department personnel; provides for staff training; implements disciplinary and termination processes as necessary.

Reviews and evaluates reports of subordinates for accuracy, completeness and compliance with departmental policies and procedures; determines and monitors follow-up actions required.

Oversees and ensures proper management of all major Public Works projects.

Reviews and approves engineering documents, including bid plans and specifications.

Performs professional engineering design and calculations.

Reviews and approves various contracts for construction, various services and consultation.
Administers the County's road system; determines improvements needed and develops an effective and efficient road work program in conjunction with the Road Superintendent.

Coordinates department activities and services with other County and municipal departments and other agencies as appropriate.

Receives and responds to inquiries, requests for assistance, concerns and complaints from the public regarding department policies, programs and projects.
Keeps abreast of new developments and legislation affecting department operations and administration.

Prepares and submits reports on departmental programs and activities to the County Administrative Officer and Board of Supervisors.

Attends civic and other community meetings and events to explain and promote the activities and functions of the department and to establish favorable public relations; gives public speaking presentations as requested.

Performs general administrative work as required, including preparing reports and correspondence, conducting and attending meetings, reviewing mail and literature, etc.

Attends training, meetings, workshops, conferences, etc., as necessary to enhance job knowledge and skills.