RECOMMENDED ACTION AND JUSTIFICATION:

Resolution Authorizing the Public Works Director to Enter Into a Personal Services Agreement for Solid Waste Consulting Services with Thomas J. Starling dba Eagle Solid Waste Consulting.

The present job description for the Solid Waste Coordinator needs to be updated and a salary survey conducted prior to any recruitment efforts. Because of this, there will be a delay in filling the position.

This Agreement will allow Public Works to continue to fulfill the various landfill monitoring requirements and some of the various other operational activities as needed. In addition, Mr. Starling will be available to provide training to the new Solid Waste Coordinator when that position is filled.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Mr. Starling will retire from the County May 31, 2001. Public Works has requested that he continue to assist staff to fulfill various state mandated requirements while the Solid Waste Coordinator's job description is updated and salary survey conducted. Future Board action will consist of review and approval of possible revisions the both the job description and salary.

Funding for the Agreement will be provided by salary savings and available funds from the Professional Services Line Item.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not approve the Agreement. Public Works' staff would assume all of the duties associated with the management and monitoring of the solid waste program. This would prove to be difficult due to the present high level of work load for administrative staff.

<table>
<thead>
<tr>
<th>COSTS:</th>
<th>(X) Not Applicable</th>
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<tr>
<td>A.</td>
<td>Budgeted current FY&gt;</td>
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<td>B.</td>
<td>Total anticipated Costs&gt;</td>
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<tr>
<td>C.</td>
<td>Required additional funding&gt;</td>
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<td>D.</td>
<td>Internal transfers&gt;</td>
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SOURCE:  ( ) 4/5th Vote Required

| A.    | Unanticipated revenues>| $    | |
| B.    | Reserve for contingencies>| $    | |
| C.    | Source description: | |

Balance in Reserve Contingencies, If Approved: $  

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

1. Personal Services Agreement

<table>
<thead>
<tr>
<th>Attachments</th>
<th>Pages</th>
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MARIPOSA COUNTY
BOARD OF SUPERVISORS

CLERK'S USE ONLY
Res. No.: N/A  Ord. No.: ______
Vote - Ayes: ______  Noes: ______
Absent: ______  Abstained: ______
☑ Approved  ☐ Denied
☐ Minute Order Attached  ☐ No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: ____________________________

ATTEST:

MARGIE WILLIAMS, Clerk of the Board

By: ________________________________

Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

☐  Recommended
☐  Not Recommended
☐  For Policy Determination
☐  Submitted with Comment
☐  Returned for Further Action

Comment: __________________________

C.A.O. Initials: __________________________

AGENDA ACTION FORM

AGENDA DATE: 06/05/01

AGENDA ITEM NO.: ______
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: JIM PETROPULOS, Public Works Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: Personal Service Agreement with Thomas J. Starling d/b/a Eagle Solid Waste Consulting Res. –01-160

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on June 5, 2001

ACTION AND VOTE:

B) Authorize the Public Works Director to Enter into a Personal Service Agreement for Solid Waste Consulting Services with Thomas J. Starling d/b/a Eagle Solid Waste Consulting

BOARD ACTION: Discussion was held. Board members requested that the recruitment process to fill the Solid Waste Coordinator position be expedited due to the pending co-compost project. (M)Reilly, (S)Pickard, Res. 01-160 adopted approving the agreement with change to allow for thirty days notice of termination on the part of the County, and to allow for adjustment of the compensation accordingly/Ayes: Unanimous.

cc: File
AGREEMENT

PERSONAL SERVICE AGREEMENT

SOLID WASTE CONSULTING SERVICES

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 THOMAS J. STARLING dba Eagle Solid Waste Consulting, hereinafter referred to as "CONSULTANT," for services provided to COUNTY.

WITNESSETH:

WHEREAS, COUNTY is in need of specialized services for monitoring of the Mariposa County Solid Waste Program to be provided to the County Public Works Department; and

WHEREAS, CONSULTANT is qualified and desires to provide specialized services to the County Public Works Department;

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

ARTICLE 1. TERM OF CONTRACT

Section 1.01 This AGREEMENT shall become effective on JUNE 11, 2001 and shall terminate on JUNE 30, 2002, unless terminated in accordance with the provisions of Article 7 of this AGREEMENT.

ARTICLE 2. INDEPENDENT CONSULTANT STATUS

Section 2.01 It is the express intention of the PARTIES that CONSULTANT is an independent CONSULTANT 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 CONSULTANT or any employee or agent of CONSULTANT. Both PARTIES acknowledge that CONSULTANT is not an employee for state or federal tax purposes. CONSULTANT shall retain the right to perform services for others during the term of this AGREEMENT.

ARTICLE 3. SERVICES TO BE PERFORMED BY CONSULTANT

Section 3.01 CONSULTANT agrees to perform the services as described on Exhibit "A" attached hereto.
Method of Performing Services

Section 3.02 CONSULTANT 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 CONSULTANT'S services.

Employment of Assistants

Section 3.03 CONSULTANT may, at the CONSULTANT'S own expense, employ such assistants as CONSULTANT deems necessary to perform the services required of CONSULTANT by this AGREEMENT. COUNTY may not control, direct, or supervise CONSULTANT'S assistant employees in the performance of those services.

CONSULTANT assumes full performance of those services. CONSULTANT assumes full and sole responsibility for the payment of all compensation of these assistants and for all state and federal income tax, unemployment insurance, Social Security, disability insurance and other applicable withholdings.

ARTICLE 4. COMPENSATION

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

A not-to-exceed sum of THIRTY THOUSAND DOLLARS ($30,000) for services as described above. The total sum to be paid to CONSULTANT includes all labor, materials, travel and other expenses to be incurred by CONSULTANT in the performance of the services described herein. Payment shall be made upon submission of a formal claim approved by the appropriate official of the County Department described in the Preamble of this AGREEMENT, as follows:

{ } Total sum to be paid upon completion of services, or

{X} Incremental payments based on the following schedule:

Monthly invoices based on an hourly rate of $55.00/hr., IRS rate for mileage, phone expense and pre-approved travel expense.

Invoices

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

Date for Payment of Compensation

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

Section 4.04 CONSULTANT 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 CONSULTANT, all fees, fines, licenses, bonds or taxes required of or imposed against CONSULTANT and all other of CONSULTANT'S costs of doing business. except as noted in Section 4.05 “Incidental Expenses.” COUNTY shall not be responsible for any expense incurred by CONSULTANT in performing services for COUNTY.

Section 4.05 CONSULTANT shall be reimbursed for vehicle mileage at the United States Internal Revenue rate. CONSULTANT shall also be reimbursed for any pre-approved travel expenses. Phone expenses for project-related calls shall be reimbursed by the County upon receipt of an itemized statement.

ARTICLE 5. OBLIGATION OF CONSULTANT

Tools and Instrumentalities

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

Section 5.02 COUNTY shall provide working space, clerical support, supplies, materials or other such support to CONSULTANT in the performance of the services and tasks as described herein.

Indemnification of Liability

Section 5.03 CONSULTANT 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 CONSULTANT or CONSULTANT'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 CONSULTANT shall provide Workers' Compensation insurance as required by the State of California for all services provided hereunder.

Assignment

Section 5.05 CONSULTANT understand that COUNTY retained the services of CONSULTANT because of CONSULTANT'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 CONSULTANT without the prior written consent of COUNTY.
State and Federal Taxes

Section 5.06 CONSULTANT is not COUNTY'S employee, CONSULTANT is responsible for paying all required state and federal taxes. In particular:
COUNTY will not withhold FICA (Social Security) from CONSULTANT'S payments;
COUNTY will not make state or federal unemployment insurance contributions on behalf of CONSULTANT;
COUNTY will not withhold state or federal income tax from payment to CONSULTANT;
COUNTY will not make disability insurance contributions on behalf of CONSULTANT;
COUNTY will not obtain workers' compensation insurance on behalf of CONSULTANT.

ARTICLE 6. OBLIGATIONS OF COUNTY

Cooperation of COUNTY

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

Assignment

Section 6.02 Neither this AGREEMENT nor any duties or obligations under this AGREEMENT may be assigned by CONSULTANT without the prior written consent of COUNTY.

ARTICLE 7. TERMINATION ARTICLE OF AGREEMENT

Termination of 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 CONSULTANT;
2. Death of CONSULTANT.

Termination by COUNTY for Default of CONSULTANT

Section 7.02 Should CONSULTANT 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 CONSULTANT.
Termination for Failure to Make Agreed Upon Payments

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

Termination by Notice

Section 7.04 Either party hereto may terminate this Agreement by written notice served upon the other party thirty (30) days prior to termination date. Termination hereunder shall be without cause.

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 and 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: Department of Public Works
4639 Ben Hur Road
Mariposa, CA 95338

CONSULTANT: Thomas J. Starling dba Eagle Solid Waste Consulting
12780 Chukar Circle #B
Sonora, CA 95370

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 CONSULTANT 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 representatives, 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:  
James J. Petropulos  
Public Works Director  
Date: 6-11-01

CONSULTANT:  
Thomas J. Starling  
Date: 6-11-01

Social Security or Taxpayer I.D. Number  
558-54-0344

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:  
JEFFREY G. GREEN, County Counsel
EXHIBIT “A”

SERVICES TO BE PROVIDED BY CONSULTANT

The Consultant shall perform services as delineated:

Regional Water Quality Control Board
  a. Self-monitoring requirements
  b. Supervise monitoring
  c. Prepare required reports
  d. Follow and adhere to the Waste Discharge Requirements (WDR)
  e. Prepare and submit Storm Water Report

California Integrated Waste Management Board
  a. Prepare and submit Annual report
  b. Prepare and submit Used Oil report
  c. Prepare and submit Waste Generation reports
  d. Prepare and submit Household Hazardous Waste/Tire/Oil grants in cooperation with the Environmental Services Joint Powers Authority (ESJPA)

Landfill and Transfer Stations
  a. Administer proper recycling/disposal of white goods
  b. Tire recycling
  c. Local Enforcement Agency (LEA) inspections/compliance
  d. Landfill gas monitoring

General Tasks
  a. Assist with the composing project as needed
  b. Solid Waste Association of North America (SWANA) legislative review
  c. Assist the ESJPA as needed
  d. Conduct household hazardous waste collection events – coordinate with Merced County
  e. Conduct Waste Tire Amnesty Days
  f. Contract negotiations
  g. Administer Total Waste Systems Rate Study (Hilton, Farnkopf & Hobson)
  h. Assist County staff as needed