RESOLUTION - ACTION REQUESTED 2018-304

MEETING: June 26, 2018

TO: The Board of Supervisors

FROM: Mike Healy, Public Works Director

RE: Approve an Agreement with Myriad Eng for Professional Services for 2Nd Floor at Government Center

RECOMMENDATION AND JUSTIFICATION:
Approve an Agreement with Myriad Engineering to develop engineering plans for a portion of the second floor at the Government Center building for a Not-to-Exceed amount of $31,737; and authorize the Board of Supervisors Chair to sign the Agreement.

The purpose of this project is to address several issues identified by key administrative staff to reduce a potential breach of security at the front desk and to provide additional office space for anticipated staff.

The engineering plans are a requirement per the Building Department. The anticipated construction cost for this work is approximately $75,000 for a total project cost of over $100,000.

Staff sought fee proposal quotes from three (3) very qualified Professional Engineering firms to accomplish this project scope. One of the firms declined consideration as their current workload would not allow them to give this project the attention that it deserved. Another gave a quote that was approximately three times the price of the recommended consultant Myriad Engineering. Staff is confident that Myriad Engineering has the staff availability and expertise to accomplish this work in a professional and timely manner.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has approved remodeling projects of County buildings in the past,

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Do not approve, the engineering plans will not move forward, and the remodel will not occur at this time.

FINANCIAL IMPACT:
Funding for this work has been appropriated in a CIP Project Allocation.
Resolution - Action Requested 2018-304

ATTACHMENTS:
Myriad 18-063 Design Gov Ctr Remodel    (PDF)

RESULT:  ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER:   Merlin Jones, District II Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey
EXCUSED:  Kevin Cann
AGREEMENT FOR DESIGN OF OFFICE RENOVATION AT THE GOVERNMENT CENTER

THIS AGREEMENT ("Agreement") is made and entered into this 26th day of June, 2018, by and between the County of Mariposa, a political subdivision of the State of California, ("County"), and Myriad Engineering ("Contractor"), pursuant to the following terms and conditions.

WITNESSETH:

1. TERM

The term of this Agreement shall commence on June 15, 2018 and terminate on December 31, 2018 unless extended as provided by this Agreement.

2. SERVICES

Contractor shall perform design of office renovation at the Government Center as described in Exhibit A, "Scope of Work," which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

3. COMPENSATION

Contractor shall be compensated for services performed in an amount not to exceed $31,737. The Contractor's hourly rates are listed in Exhibit B, "Cost Proposal." The County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

Contractor shall procure and maintain for the duration of the agreement 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 by the Contractor, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $2,000,000 per 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: 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 limits no less than $1,000,000 per accident for bodily injury and property damage.

(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.

Note: Not required if Contractor provides written verification it has no employees.

(4) Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor’s profession, with limit no less than $2,000,000 per occurrence or claim, $2,000,000 aggregate.

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 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.

B. OTHER INSURANCE PROVISIONS

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

(1) Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL 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 and CG 20 37 forms if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, the Contractor’s insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

(4) Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation 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.

(5) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the County.

(7) Verification of Coverage: Contractor shall furnish the County with 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.

(8) 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.

(9) 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.

5. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall hold harmless, defend at its own expense, and indemnify County and its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney’s fees, arising from all acts or omissions Contractor or its officers, agents, or employees in rendering services under this Agreement; excluding, however, such liability, claims, losses, damages, or expenses arising from sole negligence or willful acts.
6. INDEPENDENT CONTRACTOR

It is the expressed 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.

7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement 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 the 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.

8. STATE AND FEDERAL TAXES

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.

9. ASSIGNMENT

It is understood and agreed that this Agreement contemplates personal performance by the Contractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Contractor under this Agreement will be permitted only with the express written consent of the County.

10. NOTICE

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:
CONTRACTOR:  
Myriad  
1104 Corporate Way  
Sacramento, CA. 95831

COUNTY:  
Mariposa County Public Works  
4639 Ben Hur Rd.  
Mariposa, CA. 95338

11. COMPLIANCE

Contractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Contractor’s performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person’s race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

12. PUBLIC RECORDS ACT

Contractor is aware that this Agreement and any documents provided to the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Contractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.

13. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of the Contractor and the Director of Public Works & Transportation. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

14. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

15. TERMINATION AND RIGHTS UPON TERMINATION

A. This Agreement may be terminated upon mutual written consent of the parties, or as a remedy available at law or in equity. In the event of the termination of this Agreement, Contractor shall immediately be paid all fees earned as of the effective date of termination.

B. Either party may terminate this Agreement for convenience upon Thirty (30) calendar days’ written notice to the other party. Upon termination for convenience, Contractor...
shall be entitled to compensation for services performed acceptably up to the effective date of termination, as set forth in Exhibit B.

C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.

D. If County terminates this Agreement for default or material breach, then Contractor shall be liable for any reasonable costs in excess of the Agreement amount incurred by County in order to complete Exhibit A, “Scope of Work.” In addition, Contractor understands and agrees that County may, in County’s sole discretion, refuse to pay Contractor for that portion of Contractor’s services which were performed by Contractor prior to the termination date and which remain unacceptable to County as of the termination date.

16. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as to be construed to be a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

17. DISPUTES

Should it become necessary for a party to this Agreement to bring an action in connection with this Agreement, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney’s fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Mariposa, State of California.

18. CAPTIONS

The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

19. NUMBER AND GENDER

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word “person” includes corporations, partnerships, firms or associations, wherever the context so requires.

20. MANDATORY AND PERMISSIVE

“Shall” is mandatory. “May” is permissive.
21. **SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

22. **COUNTERPARTS**

This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

23. **OTHER DOCUMENTS**

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

24. **CONTROLLING LAW**

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

25. **AUTHORITY**

Each party and each party’s signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the agreement shall comply with all requirements of law, including capacity and authority to amend or modify the Agreement.

26. **NEGOTIATED AGREEMENT**

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

27. **NO RELIANCE ON REPRESENTATIONS**

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.
28. **WARRANTY**

County has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Contractor’s work by County shall not operate as a waiver or release.

29. **FUNDING AVAILABILITY**

It is mutually agreed that if the County budget of the current fiscal year and/or any subsequent fiscal years covered under this Agreement does not appropriate sufficient funds for this Agreement, this Agreement shall terminate and be of no further force and effect upon the day notice is provided by County to Contractor of such event. Upon termination of this Agreement, the County shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement except for services rendered prior to such termination and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor’s assumption of risk of possible non-appropriation is part of the consideration for this Agreement. County budget decisions are subject to the discretion of the Board of Supervisors.

If funding for any fiscal year is reduced or deleted by the County budget for purposes of this Agreement, the County shall have the option to either cancel this Agreement with no liability occurring to the County, except County must reimburse Contractor for services rendered prior to such reduction or modification of the County budget, or offer an Agreement amendment to Contractor to reflect the reduced amount.

**Funding Source:**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

**COUNTY OF MARIPOSA**

Rosemarie Smallcombe, Chair
Board of Supervisors

**CONTRACTOR**

Myriad Engineering

**ATTEST:**

Rene LaRoche
Clerk of the Board

**APPROVED AS TO FORM:**

Steven W. Dahlem
County Counsel
Mr. Gary Brown  
County Engineer  
Mariposa County Public Works  
4639 Ben Hur Rd  
Mariposa, CA 95338  

May 29, 2018  

Subject: Office Renovation Project  

Dear Mr. Brown,  

I would like to thank you for meeting with us regarding the design of your office renovation project. It is my pleasure to submit the attached fee proposal for completing design and assisting with services during construction based on Time & Material totaling $31,737 which is just under two weeks to complete this project. We are proposing the following scope of work:  

Task 1: Project Management  

This task will include all administrative tasks required to manage the project from start to completion.  

Assumptions: 2 meetings with County Staff, 2 meetings with Mariposa County Building Inspection, QA/QC  

Deliverables: Project Schedule Update (as required), Invoices with Progress Report  

Task 2: Data Review  

This task will include reviewing the previously prepared drawings and other information provided by County staff.  

Assumptions: All known data pertinent to the project has been provided.  

Deliverables: Data Request (as required), List of Assumptions to be reviewed and accepted by County staff, Design Criteria to be accepted/revised/finalized by County staff
Task 3: Project Design

This task will include design of the project including AutoCad drawings for 60%, 90%, Final, and Conformed Construction Bid phases. An Engineers Estimate of Probable Cost will be delivered at the Final design phase if required. Design includes: civil, electrical, and mechanical plans, elevations, and details necessary to complete construction of the office renovation project.

Assumptions: Previous drawings contain all information necessary to complete design, County staff will provide all necessary as including building compliance specifications for fire sprinklers, HVAC, and electrical, County staff will review drawings at each Design Phase and provide comments.

Deliverables: Electronic files (pdf format) at Predesign, 60% Design Phase, 90% Design Phase, and Final/Conformed Bid, AutoCAD file at Final/As Built Design Phase

Task 4: Project Construction Services

This task will include assistance during pre-construction and construction including Addenda, responding to RFIs, design clarifications, and As built drawing.

Assumptions: 1 Addendum, 4 RFIs, 1 Design Clarification

Deliverables: AutoCAD files for Conformed Drawing Set, 1 Hard Copy of Full Size Drawing Set, Electronic File (pdf format)

Please note that this scope of work and fee proposal is based on the assumptions listed for each task plus the following:

- Title 24 Electrical Calculations will be required
- 16 hours of Electrical Engineering time which includes addressing comments
- 16 hours of Mechanical Engineering time which includes addressing comments
- AutoCAD drawing of existing facility are available
- County Staff will prepare bidding package
- County Building Inspection Staff will provide inspection during construction
- As built are delivered to Myriad Engineering within 2 weeks of project completion fully marked with all construction changes/notes/measurements.
Please let me know if you would like to discuss this proposal or if you would like to move forward with the design. Please contact me at 916-799-0754 or deana.donohue@myriadeng.com

Regards,

[Signature]

Deana L. Donohue, P.E.

President/CEO
Myriad Engineering
1104 Corporate Way
Sacramento, CA 95831

Attachments: Fee Schedule

cc:/ Mike Healy

A Woman-Owned Small Business since 2017
### Exhibit B

#### MYRIAD

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Billing Rate ($)</th>
<th>President</th>
<th>Sr Project Manager</th>
<th>AutoCAD/GIS</th>
<th>Asst/ Project Administrative</th>
<th>Total Labor Hours</th>
<th>Total Labor ($)</th>
<th>Subconsultants Expenses ($)</th>
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CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
HUB INTERNATIONAL INS SVCS INC/PHS
72255611
THE HARTFORD BUSINESS SERVICE CENTER
3600 WISEMAN BLVD
SAN ANTONIO, TX 78265

CONTACT
PHONE: (866) 467-8730
FAX: (888) 443-6112

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

INSURER A: The Hartford Underwriters Insurance Company

NAIC# 30104

INSURED
MYRIAD ENGINEERING, INC
1104 CORPORATE WAY
SACRAMENTO CA 95831-3875

INSURER B :
INSURER C :
INSURER D :
INSURER E :
INSURER F :

COVERAGES

COVERAGE NUMBER:

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 191, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations.

CERTIFICATE HOLDER
MARIPOSA COUNTY PUBLIC WORKS
4639 BEN HUR RD
MARIPOSA CA 95338-9474

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Susan S. Castaneda

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