

**Standard Professional Services Agreement (“PSA”)**  
**Federal Funds**

**AGREEMENT FOR CONSULTING SERVICES**

This agreement (“Agreement”), dated as of \_\_\_\_\_, 20\_\_ (“Effective Date”) is made by and between the County of Sonoma, a political subdivision of the State of California (“County”), and MGE Engineering Inc. (“Consultant”).

**R E C I T A L S**

WHEREAS, Consultant represents that it is a duly qualified civil engineering design consultancy, experienced in the preparation of plans, specifications, and estimates and related services; and

WHEREAS, in the judgment of the Department of Transportation & Public Works, it is necessary and desirable to contract for the services of Consultant for civil engineering design and associated services for repair of storm damaged sites on Stewarts Point Skaggs Springs Road.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

**A G R E E M E N T**

**1. Scope of Services**

**1.1. Consultant's Specified Services.**

Consultant shall perform the services described in Exhibit B attached hereto and incorporated herein by this reference (“Scope of Work”), within the times or by the dates provided for in the Scope of Work and pursuant to Article 7, Prosecution of Work. In the event of a conflict between the body of this Agreement and the Scope of Work, the provisions in the body of this Agreement shall control.

**1.2. Cooperation With County.**

Consultant shall cooperate with County and County staff in the performance of all work hereunder.

**1.3. Performance Standard.**

Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant’s profession. County has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant’s work by County shall not operate as a waiver or release of Consultant’s obligations under the Section. If County determines that any of Consultant’s work is not in accordance with such level of competency and standard of care, County, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with County to review the quality of the work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 4; or (d) pursue any and all other remedies at law or in equity.

**1.4. Assigned Personnel.**

Consultant shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from County.

Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by County to be key personnel whose services were a material inducement to County to enter into this Agreement, and without whose services County would not have entered into this Agreement. Consultant shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of County. With respect to performance under this Agreement, Consultant shall employ the following key personnel: Martin McIlroy, Joe Siemers.

In the event that any of Consultant's personnel assigned to perform services under this Agreement becomes unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.

#### 1.5. Consultant's Reports or Meetings.

Consultant shall submit progress reports at least once a month. The report should be sufficiently detailed for the cost administrator designated by County ("Contract Administrator") to determine, if Consultant is performing to expectations, or is on schedule, to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

Consultant's Project Manager shall meet with County's Contract Administrator, as needed, to discuss progress on the Agreement.

#### 1.6. Federal Requirements.

Consultant shall comply with all applicable federal requirements as set forth in Exhibit A "Federal Requirements – FHWA" (the "Federal Requirements"). In the event of any conflict between the body of this Agreement and the Federal Requirements, the Federal Requirements shall control.

### 2. Allowable Costs and Payments.

#### 2.1. Method of Payment.

The method of payment for this Agreement will be based on actual cost plus a fixed fee. County will reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the work. Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the cost proposal approved by County and included within the Scope of Work attached to this Agreement ("Cost Proposal") unless additional reimbursement is provided for by contract amendment. In no event, will Consultant be reimbursed for overhead costs at a rate that exceeds County's approved overhead rate set forth in the Cost Proposal. In the event, that County determines that a change to the work specified in this Agreement is required, the contract time or actual costs reimbursable by County shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Article 2.8 shall not be exceeded, unless authorized by contract amendment.

#### 2.2. Fixed Fee.

In addition to the allowable incurred costs, County will pay Consultant a fixed fee of \$88,741.12. The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.

#### 2.3. Transportation & Subsistence.

Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

#### 2.4. Milestone Costs.

When milestone cost estimates are included in the approved Cost Proposal, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.

#### 2.5. Progress Payments.

Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of Consultant's fixed fee will be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according to the Scope of Work, County shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Article 4 "Termination".

#### 2.6. Payment

No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.

#### 2.7. Invoices.

Consultant shall submit its bills in arrears on a monthly basis in a form approved by County's Auditor and the Head of the County Department receiving the services. The bills shall show or include: (a) the task(s) performed; (b) the time in quarter hours devoted to the task(s); (c) the hourly rate or rates of the persons performing the task(s); and (d) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed, including a copy of all invoices paid to sub-consultants for work required included in the prime consultant's invoice. Consultant shall submit a Subconsultant Payment Declaration with each invoice.

Unless otherwise noted in this Agreement, payments shall be made within the normal course of County business after presentation of an invoice in a form approved by the County for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by the County. Invoices shall be mailed to County's Contract Administrator at the following address:

County of Sonoma Department of Transportation & Public Works  
FAO: Cindy Rader  
2300 County Center Drive, Suite B100  
Santa Rosa, CA 95403  
[cindy.rader@sonoma-county.org](mailto:cindy.rader@sonoma-county.org)

#### 2.8. Contract Value.

The total amount payable by County including the fixed fee shall not exceed \$1,762,684.59.

#### 2.9. Contingency.

A 10% contingency will be paid for authorized services as deemed necessary for services not included in Exhibit B, provided, however, that total payments to the Consultant do not exceed \$160,244. Work shall not commence on any contingency services until written authorization is received

#### 2.10. Salary Increases.

Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by County's Contract Administrator.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

#### 2.11. Taxes.

Pursuant to California Revenue and Taxation Code Section 18662, the County shall withhold seven percent of the income paid to Consultant for services performed within the State of California under this Agreement, for payment and reporting to the California Franchise Tax Board, if Consultant does not qualify as: (1) a corporation with its principal place of business in California, (2) a limited liability company or partnership with a permanent place of business in California, (3) a corporation, limited liability company or partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

If Consultant does not qualify, County requires that a completed and signed Form 587 be provided by Consultant in order for payments to be made. If Consultant is qualified, then County requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, Consultant agrees to promptly notify the County of any changes in the facts. Forms should be sent to County pursuant to Article 12. To reduce the amount withheld, Consultant has the option to provide County with either a full or partial waiver from the State of California.

### **3. Term of Agreement.**

This Agreement shall go into effect on Effective Date, contingent upon approval by County, and Consultant shall commence work after notification to proceed by County's Contract Administrator. The Agreement shall end on July 31, 2023, unless extended by contract amendment.

Consultant is advised that any recommendation for contract award is not binding on County until the Agreement is fully executed and approved by County.

### **4. Termination.**

#### 4.1. Termination Without Cause.

Notwithstanding any other provision of this Agreement, at any time and without cause, County shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Consultant.

#### 4.2. Termination for Cause.

Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, County may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

#### 4.3. Delivery of Work Product and Final Payment Upon Termination.

In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to County all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, consultants, and other agents in connection with this Agreement and shall submit to County an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

#### 4.4. Payment Upon Termination.

Upon termination of this Agreement by County, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be performed for such total payment; provided, however, that if services which have been satisfactorily rendered are to be paid

on a per-hour or per-day basis, Consultant shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to the termination times the applicable hourly or daily rate; and further provided, however, that if County terminates the Agreement for cause pursuant to Section 4.2, County shall deduct from such amount the amount of damage, if any, sustained by County by virtue of the breach of the Agreement by Consultant.

#### **4.5. Authority to Terminate.**

The Board of Supervisors has the authority to terminate this Agreement on behalf of the County. In addition, the Purchasing Agent or Department of Transportation and Public Works Department Head, in consultation with County Counsel, shall have the authority to terminate this Agreement on behalf of the County.

### **5. Indemnification.**

Consultant agrees to accept all responsibility for loss or damage to any person or entity, including County, and to indemnify, hold harmless, and release County, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's or its agents', employees', contractors', subcontractors', subconsultants' or invitees' performance or obligations under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against County based upon a claim relating to such Consultant's or its agents', employees', subconsultants', subcontractors', or invitees' performance or obligations under this Agreement. Consultant's obligations under this Section apply whether or not there is concurrent negligence on County's part, but to the extent required by law, excluding liability due to County's conduct. County shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Consultant or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts. The above defense and indemnity obligations shall be limited, with respect to any design professional services provided and to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional.

### **6. Insurance.**

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subconsultants, consultants, and other agents to maintain, insurance as described in Exhibit C, which is attached hereto and incorporated herein by this reference.

### **7. Prosecution of Work.**

The execution of this Agreement shall constitute Consultant's authority to proceed immediately with the performance of this Agreement. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Consultant's performance of this Agreement shall be extended by a number of days equal to the number of days Consultant has been delayed.

### **8. Extra or Changed Work.**

Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Minor changes, which do not increase the amount paid under the Agreement, and which do not significantly change the scope of work or significantly lengthen time schedules may be executed by the Department Head in a form approved by County Counsel. The Board

of Supervisors or Purchasing Agent must authorize all other extra or changed work. The parties expressly recognize that, pursuant to Sonoma County Code Section 1-11, County personnel are without authorization to order extra or changed work or waive Agreement requirements. Failure of Consultant to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Consultant shall be entitled to no compensation whatsoever for the performance of such work. Consultant further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of the County.

## **9. Representations of Consultant.**

### **9.1. Standard of Care.**

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

### **9.2. Status of Consultant.**

The parties intend that Consultant, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Consultant is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this Agreement pursuant to Article 4, above, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

### **9.3. Taxes.**

Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold County harmless from any liability which it may incur to the United States or to the State of California as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In the event County is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to furnish County with proof of payment of taxes on these earnings.

### **9.4. Conflict of Interest**

1. During the term of this Agreement, Consultant shall disclose any financial, business, or other relationship with County that may have an impact upon the outcome of this Agreement or any ensuing County construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement or any ensuing County construction project.
2. Consultant certifies that it has disclosed to County any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement. Consultant agrees to advise County of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. In addition, if requested to do so by County, Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with County disclosing Consultant's or such other person's financial interests.
3. Consultant hereby certifies that neither Consultant, nor any firm affiliated with Consultant will bid

on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

4. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

#### 9.5. Statutory Compliance / Living Wage Ordinance.

Consultant agrees to comply with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Consultant expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

#### 9.6. Nondiscrimination.

Without limiting any other provision hereunder, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation, gender expression, gender identity, genetic information, or other prohibited basis, including without limitation, the County's Non-Discrimination Policy. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.

#### 9.7. AIDS Discrimination.

Consultant agrees to comply with the provisions of Chapter 19, Article II, of the Sonoma County Code prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this Agreement and any extensions of the term.

#### 9.8. Assignment of Rights.

Consultant assigns to County all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Consultant in connection with this Agreement. Consultant agrees to take such actions as are necessary to protect the rights assigned to County in this Agreement, and to refrain from taking any action which would impair those rights. Consultant's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as County may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of County. Consultant shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of County.

#### 9.9. Ownership and Disclosure of Work Product.

All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Consultant or Consultant's subcontractors, subconsultants, and other agents in connection with this Agreement shall be the property of County. County shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly

deliver to County all such documents, which have not already been provided to County in such form or format, as County deems appropriate. Such documents shall be and will remain the property of County without restriction or limitation. Consultant may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of County.

#### 9.10. Authority.

The undersigned hereby represents and warrants that he or she has authority to execute and deliver this Agreement on behalf of Consultant.

#### 9.11. Prevailing Wage.

- A. No Consultant or subconsultant may be awarded an Agreement containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with the DIR must be maintained throughout the entire term of this Agreement, including any subsequent amendments. Consultant shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this Agreement are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer. These wage rates are made a specific part of this Agreement by reference pursuant to Labor Code § 1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at County construction sites, at County facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve County projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.

#### D. Payroll Records.

1. Each Consultant and subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code § 1776 and as defined in 8 CCR § 16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Consultant or subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (a) The information contained in the payroll record is true and correct' and (b) The employer has complied with the requirements of Labor Code § 1771, § 1811, and § 1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the Consultant under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by County at all reasonable hours at the principal office of Consultant. Consultant shall provide copies of certified payrolls or permit inspection of its records as follows: (a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request; (b) A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of County, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

Certified payrolls submitted to County, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by Consultant; (c) The public shall not be given access to certified payroll records by Consultant. Consultant is required to forward any requests for certified payrolls to County by both email and regular mail on the business day following receipt of the request.

3. Consultant shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
  4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by County shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of Consultant or subconsultant performing the work shall not be marked or obliterated.
  5. Consultant shall inform County of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
  6. Consultant or subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event Consultant or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to County, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties may be withheld by County from payments then due. Consultant is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.
- E. When prevailing wage rates apply, Consultant is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by County.
- F. Penalty.
1. Consultant and any of its subconsultants shall comply with Labor Code § 1774 and § 1775. Pursuant to Labor Code § 1775, Consultant and any subconsultant shall forfeit to County a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under this Agreement by Consultant or by its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§ 1770 to 1780, inclusive.
  2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of Consultant or subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of Consultant or subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the Consultant or subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if Consultant or subconsultant had knowledge of the obligations under the Labor Code. Consultant is responsible for paying the appropriate rate, including any escalations that take place during the term of this Agreement.
  3. In addition to the penalty and pursuant to Labor Code § 1775, the difference between the

prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Consultant or subconsultant.

4. If a worker employed by a subconsultant on a public works project is not paid the general prevailing per diem wages by the subconsultant, the prime Consultant of the project is not liable for the penalties described above unless the prime Consultant had knowledge of that failure of the subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime Consultant fails to comply with all of the following requirements: (a) The Agreement executed between the Consultant and the subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815; (b) The Consultant shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the subconsultant; (c) Upon becoming aware of the subconsultant's failure to pay the specified prevailing rate of wages to the subconsultant's workers, Consultant shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project; (d) Prior to making final payment to the subconsultant for work performed on the public works project, the Consultant shall obtain an affidavit signed under penalty of perjury from the subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the subconsultant's employees on the public works project and any amounts due pursuant to Labor Code § 1813.
  5. Pursuant to Labor Code § 1775, County shall notify Consultant on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
  6. If County determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if County did not retain sufficient money under the Agreement to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, Consultant shall withhold an amount of moneys due the subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by County.
- G. Hours of Labor. Eight (8) hours labor constitutes a legal day's work. Consultant shall forfeit, as a penalty to County, twenty-five dollars (\$25) for each worker employed in the execution of the Agreement by Consultant or any of its subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§ 1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in § 1815.
- H. Employment of Apprentices.
1. Where either this Agreement or any subcontract exceeds thirty thousand dollars (\$30,000), Consultant and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices
  2. Consultant and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to

apprentice workers. Prior to commencement of work, Consultant and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to-apprentice ratios for the Agreement work. Consultant is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

#### 9.12. Retention of Records/Audit.

For the purpose of determining compliance with California Government Code Section 8546.7, Consultant and subconsultants shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties, including the Consultant's independent certified public accountant, shall make such workpapers and materials available at their respective offices at all reasonable times during the Agreement period and for four (4) years from the date of final payment under the Agreement. County, Caltrans Auditor, FHWA, or any duly authorized representative of the federal government having jurisdiction under federal laws or regulations (including the basis of federal funding in whole or in part) shall have access to any books, records, and documents of Consultant, subconsultants, and Consultant's independent certified public accountant, that are pertinent to the Agreement for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

#### 9.13. Audit Review Procedures.

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by County.
- B. Not later than thirty (30) days after issuance of the final audit report, Consultant may request a review by County of unresolved audit issues. The request for review must be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by County will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.
- D. Consultant and subconsultant contracts, including cost proposals and Indirect Cost Rates (ICR), are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by County contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by County at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.
- E. Consultant Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by Consultant and approved by County to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the Consultant to incorporate

the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the Agreement terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

1. During a Caltrans' review of the ICR audit work papers created by Consultant's independent CPA, Caltrans will work with the CPA and/or Consultant toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, County will reimburse Consultant at a provisional ICR until a Federal Acquisition Regulation (FAR) compliant ICR (e.g., 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines) is received and approved by A&I. Accepted rates will be as follows:
  - a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
  - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
  - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require Consultant to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review the Consultant's and/or the independent CPA's revisions.
3. If the Consultant fails to comply with the provisions of this Section E, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.
4. Consultant may submit to County final invoice only when all of the following items have occurred: (a) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (b) all work under this Agreement has been completed to the satisfaction of County; and, (c) Caltrans has issued its final ICR review letter. Consultant must submit its final invoice to County no later than 60 days after occurrence of the last of these items. The accepted ICR will apply to this Agreement and all other contracts executed between County and the Consultant, either as a prime or subconsultant, with the same fiscal period ICR.

#### 9.14. Subcontracting.

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between County and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to County for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by

Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from County's obligation to make payments to the Consultant.

- B. Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by County's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. Consultant shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to Consultant by County.
- D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by County's Contract Administrator in advance of assigning work to the substitute subconsultant.

#### 9.15. Equipment Purchase and Other Capital Expenditures.

- A. Prior authorization in writing, by County's Contract Administrator shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or Consultant services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in Consultant's Cost Proposal and exceeding \$5,000 prior authorization by County's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this Agreement is subject to the following: (1) Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, County shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated, Consultant may either keep the equipment and credit County in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established County procedures; and credit County in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by County and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by County; and (2) 2 CFR Part 200 requires a credit to federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

#### 9.16. Rebates, Kickback or Other Unlawful Consideration.

Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any County employee. For breach or violation of this warranty, County shall have the right in its discretion; to terminate the Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

#### 9.17. Funding Requirements.

- A. It is mutually understood between the parties that this Agreement may have been written before

ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

- B. This Agreement is valid and enforceable only, if sufficient funds are made available to County for the purpose of this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or County Board of Supervisors that may affect the provisions, terms, or funding of this Agreement in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds.
- D. County has the option to terminate the Agreement pursuant to Article 4, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

#### 9.18. Evaluation of Consultant.

Consultant's performance may be evaluated by County. A copy of the evaluation will be sent to Consultant for comments. The evaluation together with the comments shall be retained as part of the contract record.

#### 9.19. Claims Filed By County's Construction Contractor.

- A. If claims are filed by County's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with County's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. Consultant's personnel that County considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from County. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this Agreement.
- C. Services of Consultant's personnel in connection with County's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to resolve the construction claims.

#### 9.20. National Labor Relations Board Certification

In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

#### 9.21. Retention of Funds.

- A. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.
- B. No retainage will be withheld by the County from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial

remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

#### 9.22. Contingent Fee.

Consultant warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, County has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

#### 9.23. Inspection of Work.

Consultant and any subconsultant shall permit County, the state, and the FHWA if federal participating funds are used in this Agreement; to review and inspect the project activities and files at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.

#### 9.24. Safety.

- A. Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by County Safety Officer and other County representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code Section 591, County has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles
- C. Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

### **10. Demand for Assurance.**

Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article limits County's right to terminate this Agreement pursuant to Article 4.

## **11. Assignment and Delegation.**

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.

## **12. Method and Place of Giving Notice, Submitting Bills and Making Payments.**

All notices, bills, and payments shall be made in writing and shall be given by personal delivery or by U.S. Mail or courier service. Notices, bills, and payments shall be addressed as follows:

### **To County:**

Sonoma County Department of Transportation and Public Works  
Attn: Cindy Rader  
2300 County Center Drive, Suite B-100 Santa Rosa, CA 95403  
(707) 565-2231  
[cindy.rader@sonoma-county.org](mailto:cindy.rader@sonoma-county.org)

### **To Consultant:**

MGE Engineering Inc.  
Attn: Martin McIlroy  
7415 Greenhaven Drive, Suite 100  
Sacramento, CA 95831  
(916) 421-1000  
[mmcilroy@mgeeng.com](mailto:mmcilroy@mgeeng.com)

When a notice, bill or payment is given by a generally recognized overnight courier service, the notice, bill or payment shall be deemed received on the next business day. When a copy of a notice, bill or payment is sent by facsimile or email, the notice, bill or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill or payment is promptly deposited in the U.S. mail and postmarked on the date of the facsimile or email (for a payment, on or before the due date), (2) the sender has a written confirmation of the facsimile transmission or email, and (3) the facsimile or email is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article.

## **13. Miscellaneous Provisions.**

### **13.1. No Waiver of Breach.**

The waiver by County of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

### **13.2. Construction.**

To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Consultant and County acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Consultant and County acknowledge that they have each had an

adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

13.3. Consent.

Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.

13.4. No Third Party Beneficiaries.

Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.

13.5. Applicable Law and Forum.

This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or the forum nearest to the city of Santa Rosa, in the County of Sonoma.

13.6. Captions.

The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

13.7. Merger.

This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

13.8. Survival of Terms.

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

13.9. Time of Essence.

Time is and shall be of the essence of this Agreement and every provision hereof.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.**

**SIGNATURES FOLLOW ON NEXT PAGE -**

**- THIS SPACE LEFT INTENTIONALLY BLANK -**

CONSULTANT:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNTY OF SONOMA:

CERTIFICATES OF INSURANCE ON  
FILE WITH AND APPROVED AS  
TO SUBSTANCE FOR COUNTY:

By: \_\_\_\_\_

Technical Writing Specialist

Date: \_\_\_\_\_

APPROVED AS TO FORM FOR  
COUNTY:

By: \_\_\_\_\_

Director of Transportation & Public  
Works

Date: \_\_\_\_\_

By: \_\_\_\_\_

County Counsel

Date: \_\_\_\_\_

By: \_\_\_\_\_

Chair Board of Supervisors

Date: \_\_\_\_\_

ATTEST

By: \_\_\_\_\_

Clerk of the Board of Supervisors

## **Exhibit A**

### **FEDERAL REQUIREMENTS – FHWA**

Professional Services Agreements

[Revise Date 03-19]

#### **1. Disadvantaged Business Enterprise (DBE) Participation.**

- 1.1. This Agreement is subject to 49 CFR Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. Consultants who enter into a federally-funded agreement will assist Caltrans in a good faith effort to achieve California’s statewide overall DBE goal.
- 1.2. The goal for DBE participation for this Agreement is 23%. Participation by a DBE consultant or subconsultant shall be in accordance with information contained in the Caltrans Local Assistance Procedures Manual (LAPM) Form, Exhibit 10-O1 “Consultant Proposal DBE Commitment,” or Exhibit 10-O2 “Consultant Contract DBE Information,” incorporated as part of the Agreement by this reference. If a DBE subconsultant is unable to perform its obligations under this Agreement, Consultant shall make a good faith effort to replace him/her with another DBE subconsultant, if the participation goal is not otherwise met.
- 1.3. Consultant can meet the DBE participation goal by either documenting commitments to DBEs to meet the Agreement goal, or by documenting adequate good faith efforts to meet the Agreement goal. An adequate good faith effort means that the Consultant must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If Consultant has not met the DBE goal, complete and submit LAPM Form, Exhibit 15-H “DBE Information – Good Faith Efforts” to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- 1.4. DBEs and other small business concerns, as defined in 49 CFR Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. Consultant or any subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as County deems appropriate, which may include, but is not limited to: (a) withholding monthly progress payments; (b) assessing sanctions; (c) liquidated damages; and/or (d) disqualifying Consultant from future bidding as non-responsible.
- 1.5. A DBE firm may be terminated only with prior written approval from County and only for the reasons specified in 49 CFR Part 26.53(f). Prior to requesting County consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR Part 26.53(f). If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- 1.6. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of County.
- 1.7. A DBE is only eligible to be counted toward the Agreement goal if it performs a Commercially Useful Function (CUF) on the Agreement. CUF must be evaluated on an agreement-by-

agreement basis. A DBE performs a CUF when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

- 1.8. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- 1.9. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- 1.10. Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- 1.11. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on LAPM Form, Exhibit 17-F "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants," certified correct by Consultant or Consultant's authorized representative and shall be furnished to County with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to County.
- 1.12. If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be reported to County within 30 days.
- 1.13. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

## **2. Debarment and Suspension.**

- 2.1. This Agreement is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 1200. As such, Consultant is required to verify that none of Consultant, its principals (defined at 2 CFR Part 180.995), or its affiliates (defined at 2 CFR Part 180.905) are excluded (defined at 2 CFR Part 180.940) or disqualified (defined at 2 CFR Part 180.935). Covered transactions shall not be entered into with excluded or disqualified persons or with parties listed on the Government's Excluded Parties List System in the System for Award Management (SAM). The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or

otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority. No entity, including subcontractors, may receive any federal funds through this Agreement unless the entity has provided its unique entity identifier to County.

- 2.2. Consultant, by executing this Agreement, certifies under penalty of perjury under the laws of the State of California that Consultant or any person associated therewith in the capacity of owner, partner, director, officer or manager: (a) is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; (b) has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; (c) does not have a proposed debarment pending; and (d) has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- 2.3. Any exceptions to this certification must be disclosed to County. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- 2.4. Exceptions to the Federal Government Excluded Parties List System in SAM maintained by the U.S. General Services Administration are to be determined by the Federal Highway Administration.
- 2.5. Consultant agrees that neither Consultant nor any of its third party subconsultants shall enter into any subcontracts for any of the work under this Agreement with a third party who is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs.
- 2.6. This certification is a material representation of fact relied upon by County. If it is later determined that Consultant did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 1200, subpart C, in addition to remedies available to County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

### **3. Lobbying (Byrd Anti-Lobbying Amendment, 31 USC 1352 (as amended))**

(all contracts and subcontracts in excess of \$100,000)

- 3.1. Consultant shall not use or expend any funds received under this Agreement with any person or organization to influence or attempt to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 3.2. Consultant, by executing this Agreement, certifies, to the best of his or her knowledge and belief, that: (a) No federal, state or local appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of this Agreement, or with the extension, continuation, renewal, amendment, or modification of this Agreement; and (b) If any funds other than federal, state, or local appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of

Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- 3.3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 and 49 CFR Part 20. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- 3.4. Consultant also agrees by signing this Agreement that it shall require that the language of this Section be included in all subcontracts that exceed one hundred thousand dollars (\$100,000), and that all such subconsultants shall certify and disclose accordingly.

#### **4. Cost Principles and Administrative Requirements.**

Consultant agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost. Consultant also agrees to comply with federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by Consultant to County.

#### **5. Equal Employment Opportunity Compliance.**

(all contracts involving "construction work" as defined in 41 CFR 61-1.3, including construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services; also including the supervision, inspection, and other onsite functions incidental to the actual construction)

Consultant agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). 41 CFR 60-1.4 is hereby incorporated by reference. During the performance of this Agreement, Consultant agrees as follows:

- 5.1. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 5.2. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 5.3. Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Consultant's legal duty to furnish information.

- 5.4. Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5.5. Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5.6. Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 5.7. In the event of Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and Consultant may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 5.8. Consultant will include this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

## **6. Non-Discrimination Clause and Statement of Compliance.**

- 6.1. Consultant's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with the nondiscrimination program requirements of Cal. Gov. Code § 12990 and 2 CCR § 8103.
- 6.2. During the performance of this Agreement, Consultant and its subconsultants shall not deny the Agreement's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin,

ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- 6.3. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Cal. Gov. Code § 12990, et seq.), the applicable regulations promulgated there under (2 CCR § 11000, et seq.), the provisions of Gov. Code §§ 11135-11139.5, and the regulations or standards adopted by County to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code § 12990 (a-f), set forth 2 CCR §§ 8100-8504, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.
- 6.4. Consultant shall permit access by representatives of the Department of Fair Employment and Housing and County upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said department or County shall require to ascertain compliance with this clause.
- 6.5. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- 6.6. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.
- 6.7. Consultant, with regard to the work performed under this Agreement, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- 6.8. Consultant shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR § 21.5, including employment practices and the selection and retention of subconsultants.

## **7. Text Messaging While Driving.**

- 7.1. In accordance with Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving" and Department of Transportation Order 3902.10 "Text Messaging While Driving," text messaging while driving is prohibited in the performance of any duties included under this Agreement for both Consultant and any sub-consultants. Consultant shall include a provision prohibiting texting while driving in all sub-consultant agreements entered into under this Agreement.
- 7.2. For the purposes of this provision, "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary operating a motor vehicle on a

roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

- 7.3. For the purposes of this provision, “text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of Short Message Service (SMS) texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

## **8. Energy Conservation Requirements.**

- 8.1. Consultant agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).
- 8.2. Consultant agrees to include the above paragraph in each subcontract such that all provisions will equally apply to the subcontractor. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject thereto.

## **9. Clean Air and Water Requirements.**

- 9.1. Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q), as amended, and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1388) (as all or any may be amended), and will report violations to the FHWA and the Regional Office of the Environmental Protection Agency (EPA).
- 9.2. Consultant agrees to report each violation of these requirements to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA regional office.
- 9.3. Consultant agrees to include the above paragraphs in each subcontract exceeding \$150,000, such that all provisions will equally apply to the subconsultant. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject thereto.

## **10. Notice of Requirements Pertaining to Copyrights.**

- 10.1. Consultant agrees that the FHWA shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for government purposes: (a) the copyright in any work developed with the assistance of funds provided under this Agreement; (b) any rights of copyright to which Consultant purchases ownership with the assistance of funds provided under this Agreement.
- 10.2. Consultant agrees to include the above paragraph in each subcontract such that all provisions will equally apply to the subconsultant. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject thereto.

## **Exhibit B – Scope of Work & Cost**

### **Project Description**

During the 2019 Winter Storms, Stewarts Point/Skaggs Springs Road (SP/SS) suffered slides and slipouts. SP/SS Road consists of four sites. Two of the sites are in close proximity and will be invoiced together, the other two will each invoice separately. This contract will address all four sites. The sites are located at roughly PM 13.68, 13.97, 19.67, 21.0. The consultant will provide engineering design of retaining structures, drainage structures, and the roadways, including minor realignment.

### **Project Approach**

#### **Scope of Services**

The Consultant shall provide all studies, investigations, surveys and engineering consulting services needed to complete the design and prepare final PS&E for all four sites, including any retaining structures and roadway repairs.

This includes AASHTO LRFD Sixth Edition with Caltrans Amendments dated January 2014 and the Caltrans Seismic Design Criteria v1.7, and Section 5 of Caltrans “Memo-to-Designers” Manual.

#### **Plans, Specifications and Special Provisions**

Plans and specifications shall be prepared in conformance with the current edition of the "Ready to List and Construction Contract Award Guide" and Caltrans Standard Plans 2018, Caltrans Standard Specifications 2018, Caltrans Standard Special Provisions 2018, and County Standards. County will provide boilerplate special provisions and will produce the accompanying bid book, Special Provisions including Technical Specifications shall be in conformance with TPW's house style.

Be prepared to provide all sites on one set of PS&E but ready to split into two should it become necessary. This project is on a tight timeline and if one site should become slowed down due to environmental or Right-of-way issues the other projects will need to continue to proceed.

#### **Payment**

Payment terms for this RFP are Cost Plus Fixed Fee.

This project is funded in part or in whole by the Federal Highway Administration (FHWA) and the awards body is the California Department of Transportation (Caltrans). To comply with funding requirements, the successful proposer and all subconsultants will be subject to Indirect Cost Rate (ICR) verification/audit.

Caltrans' form Exhibit 10-A has been included as an attachment to this RFP and all proposers are strongly recommended to review the documentation requirements that this process will involve. Time is of the essence with this contract and TPW will require rapid and successful response and completion of the ICR audit process.

### **Task 1 - Preliminary Engineering**

### Assess Available Information

Assess available documentation and conduct a site visit with County and stakeholders as necessary.

### Prepare Type Selection Memo

- Description of the facility condition that includes details/topographic survey of the existing facility that includes a discussion of the cause of damage and resulting failure
- Presentation of multiple alternatives
- Analysis of each alternate method of repair for cost and feasibility
- A description of eligible work to return the facility to pre-disaster design, function and capacity to meet current codes, specifications and standards
- Recommendation for the most feasible method of repair
- The County prefers using Standard Wall Types, where feasible. Therefore, the Type Selection memo shall include at least one Caltrans Standard Wall

### Task 1 Deliverables:

- Field visit/s with stakeholders as necessary
- Type Selection Memo

### **Task 2A - Alignment Engineering**

The Consultant will establish the alignment of the roadway based on the County's preferred alignment, surveyed site conditions, as well as AASHTO and Caltrans geometric standards. Only minor alignment shifts are anticipated, if any.

### Task 2A Deliverables:

- Preliminary Alignment Alternatives

### Task 2A County Decision Point:

- Approve Preliminary Alignment

### **Task 2B - Utility Coordination**

- Identify type and location of utilities, incorporate into plans and evaluate for potential conflicts
- Obtain utility base maps in accordance with Caltrans LAPM Chapter 14
- Coordinate with utilities including conflict resolution plan, as necessary.
- Attend monthly County/utility coordination meeting as necessary

### Task 2B Deliverables:

- Conflict Maps
- Utility Letters

### **Task 3 – Surveying/Mapping/ROW Engineering**

#### Control

Survey vertical control shall be NAVD 88. Survey horizontal control shall be California Coordinate System of 1983, Zone 2, Epoch 2010.0.

#### Topographic Survey

The topographic survey will be at a drawing scale of 1 inch = 20 feet, with a one foot contour interval.

Topographic survey will include all necessary work to produce a topographic map, including features such as, but not limited to pavement; utility markings on the pavement, utility poles, driveways, trees four (4) inches and larger at breast height, retaining wall, structures, and any other pertinent information that could apply to the project during design.

### Right of Way (ROW)

The Consultant will perform the following right-of-way survey tasks as necessary:

- Perform boundary research to locate the existing right of way data
- Perform boundary surveys to search for, locate and tie existing monumentation
- Perform a resolution of the existing road right of way
- Determine additional right of way needs
- Prepare an acquisition map (if needed)
- Complete a Record of Survey showing the existing right of way and the project centerline(s)
- The Record of Survey will show at least two permanent monuments that will survive the construction of the project

This proposal assumes the Consultant will procure between 0-2 title reports per site.

The Consultant will prepare approximately 0-2 legal descriptions for permanent right of way acquisition and 0-2 legal descriptions for temporary construction easement acquisition, per site.

### Task 3 Deliverables

- Acquisition map
- Record of Survey
- Legal descriptions, plats and closure calculations for ROW acquisition
- Topographic survey files

### Task 4 - Geotechnical Engineering

The Consultant is to perform geotechnical explorations and evaluate geological conditions at the site. The Consultant will prepare project geotechnical report with recommended repair alternates. The Consultant's subsurface exploration will include drilling test borings at key locations, obtaining soil and rock samples for observation and laboratory testing, and measuring the depth to and variation in embankment groundwater levels. This task shall include the following:

#### Planning & Permitting

- Schedule field exploration.
- Field stake boring locations; coordinate utility clearance with Underground Service Alert.
- Obtain Sonoma County Permit and Resource Management Department (PRMD) drilling permit

#### Traffic Control

Flagmen and portable orange traffic warning signs and cones will be used to control traffic whenever drilling operations presents a potential obstruction to traffic.

#### Geologic Reconnaissance

- Research published documents, including geologic maps of the site and vicinity.
- Perform an engineering geologic reconnaissance of surrounding areas. The Consultant's reconnaissance will be directed toward identifying and mapping bedrock types, bedding

orientation, fracturing, faulting, and other bedrock characteristics, as appropriate. A Professional Geologist registered in the State of California will perform the work.

#### Geotechnical Investigations

- Shall include site reconnaissance and field tests. Consultant shall perform field tests (test pits, borings, geologic reconnaissance or seismic refraction profiles) to collect subsurface information required for design. This shall include locating borings at the project site; marking out field test locations with paint or other acceptable means for Underground Service Alert notification and for utility location; logging earth materials; groundwater depth and the depth of refusal or solid rock if either are encountered. Each boring site shall be accurately mapped.

#### Laboratory Testing

Selected soil and rock samples obtained from the Consultant's borings will be subjected to laboratory testing at a certified geotechnical laboratory to assess their pertinent geotechnical engineering characteristics. Tests to be performed include moisture content/dry density, classification, strength, corrosivity, R-value (for pavement design) or any other tests recommended as appropriate by the Design Engineer. Hard rock core pieces of sufficient length will be tested for compressive strength, if practical. In addition, Consultant shall also be responsible for providing the following; basic soil characteristics and bearing capacity. Consultant shall also be responsible to test hazardous materials when pertinent.

#### Engineering and Geologic Analyses

The Consultant will characterize the terrain in terms of regional and local geological and seismic conditions, including geologic hazards. The Consultant will analyze the field and laboratory data and conduct engineering and geologic analyses to provide conclusions and recommendations regarding feasible alternatives based on their experience with similar projects and the results of the investigation. The field geology and boring log data will be presented on a geologic map and subsurface profile sheet. Laboratory test data will be presented on the boring logs alongside the samples tested.

The Consultant will develop geotechnical criteria for design of the most suitable alternatives, including the following:

- Site preparation and grading, including excavation characteristics, suitability of excavated soils within the roadway for re-use as fill, and the treatment of existing fill, expansive and porous soils, as appropriate;
- Foundation design criteria for potential foundation types,
- Pavement sections for asphalt-paved areas;

#### Prepare Reports

The Consultant will summarize the results of the investigation, testing, and analysis in a draft report. The draft report shall include recommendations for foundation type, foundation capacity, and retaining structures. The report shall identify any construction conditions or geologic hazards that may be present and need to be addressed. The draft report shall be submitted prior to submittal of the Type Selection Memo. After the County has commented on the draft report and all outstanding questions answered the report shall be finalized.

#### Task 4 Deliverables:

- Preliminary Geotechnical Report

- Geotechnical Report

### **Task 5 - Environmental**

The purpose of this task is for the Consultant to complete various studies and technical memorandums required as part of the NEPA and CEQA process, which the County will use to complete the appropriate environmental review.

The Consultant will prepare technical memoranda and studies as required by Caltrans. If PES response letters become available prior to the close of the RFP period they will be posted on the portal.

#### **Task 5 Deliverables**

- Equipment Staging Memo
- Traffic/Detour Memo
- HazMat Memo – Striping
- Any other memos and reports that Caltrans deems necessary once design is developed
- Various permit applications

### **Task 6 - 65% PS&E**

#### **Structure Design Development**

The Consultant will confirm and verify the design criteria and loading conditions, then verify the structural adequacy of the selected structure type.

#### **Contract Drawings**

- General Plan
- General Notes, Index, Std. Plans List
- Structure Plans and Elevations
- Drainage Plans and Profiles
- Temporary and Permanent Erosion and Pollution Control Plans
- Foundation Plans
- Structure reinforcing detail
- Proposed Erection Sequence
- Drainage Details
- Log of Test Borings

#### **Roadway**

The Consultant will design the roadway and prepare the contract drawings for same. The pavement section, roadside drainage and roadside barriers are included in the design.

#### **Quality Control and Quality Assurance**

A Quality Control (QC) and Quality Assurance (QA) program will be implemented on the project to capture any design or drafting errors.

#### **Task 6 Deliverables**

- 65% PS&E (after QA/QC complete)
- 65% Design Calculations (after QA/QC complete)

#### **Task 6 County Decision Points**

- Provide 65% PS&E review comments

### **Task 7- 90% PS&E**

- Incorporate County review comments into the design and bidding documents, if any
- Complete the design documents and bidding documents
- Perform an independent design check

The QC/QA procedures described in Task 6 will be implemented during this task with an emphasis on coordination between structural, traffic and utility documents.

#### **Independent Design Check**

The independent design check of the road and retaining structure will be performed by individuals that weren't involved in the originating or checking of the design calculations. Where possible, the independent checker shall use alternative methods of design and analysis than used by the designer.

The independent check is complete when the independent checker finishes their calculations, compares results with those of the designer and reconciles all discrepancies between the independent check and the original design.

The 90% PS&E will be submitted when the independent design check is complete. The design of the road and retaining structure is essentially complete at this time.

#### **Task 7 Deliverables:**

- 90% PS&E
- 90% Design Calculations

#### **Task 7 County Decision Point:**

- Provide 90% PS&E review comments

### **Task 8 - Final (100%) PS&E**

- Incorporate County & Caltrans review comments into the design and bidding documents, if any
- Sign and seal the design and bidding documents.
- Prepare copies of design, design check and bidding documents in the quantities required by the County.
- Assist the County in securing funding through FHWA, if needed.

The deliverable for this task shall not be prepared until receiving written authorization from the County.

#### **Task 8 Deliverables:**

- (3) Sets of 24x36 final design plans
- Copies of Specifications (two loose-leaf bound and one printer ready), produced in accordance with TPW house style
- Copy of Engineer's Estimate
- Copy of design check calculations
- Copy of design check quantities
- Copies of Resident Engineer pending file
- USB drive with electronic versions of all Task 8 deliverables itemized above in DWG, MS Excel or MS Word format, Print ready PDF files of same will be provided. Design plans will be provided in AutoCAD and PDF formats.

#### **Task 8 County Decision Point:**

- Provide written authorization to proceed

**Pre-Construction Engineering Services**

The Consultant will remain available to provide assistance during bidding and award.

**Construction Support Services**

The Consultant will remain to provide assistance responding to Requests for Information (RFIs), from the contractor, or similar requests from TPW, as needed.

## *Scope of Work*

### ***Project Management, Coordination, and Quality Control***

This task applies throughout all phases until design completion and is summarized below.

- **Communication and Coordination** – MGE will develop task and scope, provide written communication via telephone or email as well as face-to-face meetings as required throughout the term of the contract. Administration and invoicing will occur monthly.
- **Project Schedule** - MGE will prepare and maintain a detailed project schedule that includes project tasks and will include County review time and PDT responsibilities.
- **Kick-off Meeting** - MGE will meet with County staff to establish communication and administrative protocol, finalize the schedule, identify environmental and technical issues, and obtain data from the County.
- **Progress Reports** - MGE will submit a monthly Progress Report to accompany invoices that will include a narrative on work accomplished; work planned for the next reporting period; information/decisions required to maintain project schedule and complete deliverables; and budget.
- **Quality Control** - MGE will develop a detailed Quality Control Plan to be used to ensure that deliverables are complete and accurate. Transmittals for all deliverables will include the name(s) and contact information of the person(s) involved in ensuring quality deliverables.
- **Assistance with LAPM Forms, Design Exceptions, and Certifications** - MGE will provide LAPM Forms and Certifications support to the County as needed.

#### *Deliverables:*

- Copies of meeting agenda and minutes, progress reports

### ***Task 1 - Preliminary Engineering***

#### **ASSESS AVAILABLE INFORMATION**

MGE will assess available documentation and conduct a site visit with County and stakeholders as necessary.

#### **PREPARE TYPE SELECTION MEMO**

MGE will prepare a Type Selection Memo that includes a description of the facility condition, details/topographic survey and a discussion of the cause of damage and resulting failure. MGE will prepare multiple repair alternatives; provide analysis of repair alternative costs and feasibility; provide a description of eligible work to return the facility to pre-disaster design, function and capacity to meet current codes, specifications and standards; provide our recommendation for the most feasible method of repair including evaluating Caltrans Standard Wall Types, where feasible.

#### *Task 1 Deliverables:*

- Field visits with stakeholders as necessary and Type Selection Memo

### ***Task 2A - Alignment Engineering***

MGE will consult with the County to evaluate and establish the alignment of the roadway based on the County's desires, surveyed site conditions, and within AASHTO and Caltrans geometric standards. Only minor alignment shifts are anticipated, if any.

*Task 2A Deliverables:*

- Preliminary Alignment Alternatives

*Task 2A County Decision Point:*

- Approve Preliminary Alignment

### ***Task 2B - Utility Coordination***

MGE will immediately identify type and location of utilities at the project sites and notify utilities of the projects. MGE will incorporate utility locations into plans and evaluate for potential design conflicts. MGE will obtain utility base maps in accordance with Caltrans LAPM Chapter 14; will coordinate with utilities including conflict resolution plan, as necessary, and will attend monthly County/utility coordination meeting as necessary

*Task 2B Deliverables:*

- Conflict Maps and Utility Letters

### ***Task 3 – Surveying/Mapping/ROW Engineering***

#### **CONTROL**

Survey vertical control shall be NAVD 88. Survey horizontal control shall be California Coordinate System of 1983, Zone 2, Epoch 2010.0.

#### **TOPOGRAPHIC SURVEY**

CPI will provide a topographic survey at a drawing scale of 1 inch = 20 feet, with a one-foot contour interval and will include all necessary work to produce a topographic map, including features such as, pavement; utility markings and stakes, utility poles, driveways, trees four (4) inches and larger at breast height, culverts, structures, and any other pertinent information that could apply to the project during design.

#### **RIGHT OF WAY (ROW)**

CPI will perform the following right-of-way survey tasks as necessary: perform boundary research to locate the existing right of way data; perform boundary surveys to search for, locate and tie existing monumentation; perform a resolution of the existing road right of way; determine additional right of way needs; prepare an acquisition map (if needed); complete a Record of Survey showing the existing right of way and the project centerline(s); and showing at least two permanent monuments that will survive the construction of the project. CPI will procure one title report for sites PM 13.61 and 13.97, and one title report for PM 20.01. CPI will procure two title reports for Site PM 19.67. CPI will prepare legal descriptions for permanent right of way acquisition and legal descriptions for temporary construction easement acquisition for these projects as necessary. MGE expects up to two of each will be required per site. MGE will include boundaries and survey data within the plans.

*Task 3 Deliverables*

- Acquisition map; Record of Survey; legal descriptions, plats and closure calculations for ROW acquisition; topographic survey files

### ***Task 4 - Geotechnical Engineering***

CAInc. will perform geotechnical exploration, geologic reconnaissance, and prepare separate reports for each site. The following presents the scope of services and field exploration for each site.

Site PM	No. of Drilled Borings	Depth	Traffic Control	Sonoma PRMD Permit	Mark USA prior to drilling
13.61	2 to 3	50	Yes, 1	Yes	Yes
13.97	2 to 3	60	Yes, 1,2	Yes	Yes
19.67	7	80 to 120	Yes, 1,2	Yes	Yes
20.01	4	60	Yes, 1,2	Yes	yes

*Note: 1 = Shoulder closures; 2 = traffic control with flaggers*

CAInc. will collect samples at 5-foot intervals and will recover rock core samples if diamond coring methods are required to advance the boring. **Laboratory testing will likely include moisture content, dry density, soil classification, compressive strength tests and point load index tests on rock, corrosivity, and one R-value per site.** CAInc. will obtain a Sonoma County encroachment permit for each site in addition to the PRMD permits. CAInc. assumes no fee or bond will be required for the encroachment permit.

### **GEOLOGIC RECONNAISSANCE**

CAInc will perform geologic reconnaissance at each of the sites and will use the LiDAR mapping at PM 19.67 to evaluate the slope above the roadway and geomorphology beyond the landslide headscarp. CAInc. expects geologic reconnaissance at PM 13.61, PM 13.97, and PM 20.01 will consist of site review and observations of the terrain, any seepage areas, general geologic conditions, and observations of rock outcrop characteristics such as bedding, rock type, weathering, fracturing, etc.

CAInc will develop geotechnical criteria for the preferred design alternative, including site preparation and grading, excavation characteristics, suitability of excavated soils within the roadway for re-use as fill, and the treatment of existing fill, expansive and porous soils, as appropriate; foundation design criteria for walls or other structures required for the repair and pavement sections for asphalt-paved areas based on the R-value test results and Caltrans Highway Design Manual criteria.

### **PREPARE REPORTS**

CAInc. will prepare a geotechnical type selection report that includes laboratory test results, boring logs, and geologic cross sections, to provide a basis for evaluating preliminary repair alternatives. Upon selection of a repair alternative, CAInc. will prepare a draft geotechnical report for the selected alternatives that will include final geotechnical recommendations and geotechnical criteria for earthwork, wall design, cut slopes, stabilization measures, pile depths, slope stability analyses, etc. The draft geotechnical report will summarize the results of their investigation, testing, and analysis. After the County has commented on the draft report and all outstanding questions are answered the report will be finalized.

#### *Task 4 Deliverables:*

- Type Selection Geotechnical Reports; DRAFT Geotechnical Reports; FINAL Geotechnical Reports

### ***Task 5 - Environmental***

NCE will work with MGE and the County to determine the appropriate limits of potential effects at the project site for purposes of environmental technical studies. NCE will prepare technical memos based on the requirements of the approved PES form for each site, as necessary. During the preliminary design phase of the project, NCE will perform a preliminary database search to determine potential resources impacts and will make a site visit to observe the sites and document potential environmental issues. After the site visit, NCE will prepare a technical memorandum summarizing their database review and site observations and the potential resources that could be present at the project sites.

After repair alternatives are selected, NCE will perform technical studies that may include: biological, cultural, Native American Consultation, and aquatic resources delineations, as necessary, and prepare a Notice of Exemption for each project site and provide an administrative record of the additional environmental reviews. NCE will prepare permit applications for USACE 404 and RWQCB 401 where Waters of the US may be impacted such as the drainage and culvert at PM 13.61.

MGE will develop plans and a memo that show construction staging areas and traffic detours, and CAInc. will evaluate hazardous materials in the roadway striping. These documents will support environmental studies and permit applications.

#### *Task 5 Deliverables*

- Equipment Staging Memo
- Traffic/Detour Memo
- HazMat Memo – Evaluation of roadway striping
- USACE 404 and 401 permit applications, as necessary

### ***Task 6 - 65% PS&E***

#### **STRUCTURE DESIGN DEVELOPMENT**

MGE will prepare plans, specifications and estimates (PS&E) for the construction of the proposed improvements. Submittals will be made at the 65%, 90%, and Final levels. Plans shall be prepared at 1"=20' scale, in accordance with the most current version of each of the following design standards including AASHTO, Caltrans Highway Design Manual, California Manual of Uniform Traffic Control Devices, Sonoma County Standards and Caltrans Seismic Design Criteria.

Upon approval of the Type Selection Report by the County, and assurances that final design is appropriate to undertake, MGE will proceed with production of a draft set of 65% Plans, and will develop specifications and a cost estimate. Plans shall include, at a minimum, the following sheets:

- |   |   |
|---|---|
| • Title Sheet   | • Pavement Delineation and Signage Plan |
| • Survey and Horizontal Control Plan  | • General Plan                          |
| • Road Layout and Profile Sheets  | • Index to Plans & General Notes        |
| • (Roadway)Typical Cross Sections   | • Structure Foundation Plan             |
| • Construction Details  | • Structure Typical Sections            |
| • Water Pollution Control Plans   | • Wall Layout                           |
| • Drainage Plans and Profiles   | • Wall Details (5 sheets)               |
| • Erosion Control Plan  | • Miscellaneous Details                 |
| • Traffic Handling/Construction Staging/<br>Detour/Construction Signage Plans | • Log of Test Borings Sheets            |

#### **ROADWAY**

MGE will complete the roadway design, construction traffic control plans, and associated civil design and plans in accordance with the County Standards, AASHTO "A Policy on Geometric Design of Highways and Streets", Manual of Uniform Traffic Control Devices (MUTCD) and Caltrans Highway Design Manual. A full set of detailed approach roadway and civil plans will be prepared including, as necessary; Title Sheet, Typical Cross Sections, Layout, Plan and Profile, Construction Details, Traffic Control Plan and Detour, and Erosion Control Plan sheets.

#### **QUALITY CONTROL AND QUALITY ASSURANCE**

MGE will perform quality control and quality assurance on 65% design plans, specifications, and estimates. A senior level engineer at MGE will perform the QA/QC and provide comments to designers

to review and to make changes. Changes will be back-checked by the reviewer. MGE will also perform a plans-in-hand site review to check conditions and plan sets for any discrepancies or overlooked items.

#### *Task 6 Deliverables*

- 65% PS&E (after QA/QC complete); 65% Design Calculations (after QA/QC complete)

#### *Task 6 County Decision Points*

- Provide 65% PS&E review comments

### ***Task 7- 90% PS&E***

After the County has reviewed and provided written comments on the 65% plan set and estimate, MGE will continue the design, addressing the comments. The unchecked structure plans will be provided to another registered civil engineer, not otherwise involved in the project, to prepare an independent check of all aspects of the structure design including the quantities, costs estimates, and specifications. The designer and checker will confer and agree on any discrepancies in the analysis and detailing.

The QA/QC procedures described in Task 6 will be implemented during this task with an emphasis on coordination between structural, traffic and utility documents.

#### *Task 7 Deliverables:*

- 90% PS&E; 90% Design Calculations; 90% Cost Estimates

#### *Task 7 County Decision Point:*

- Provide 90% PS&E review comments

### ***Task 8 - Final (100%) PS&E***

Based on review and commentary from the County, the 90% PS&E will be edited to the Final Plans, Specifications, and Estimate. A meeting will be scheduled between the County Engineering staff and the Consultant's team, to review the final PS&E documents, and discuss the inclusion or resolution of all comments and details into the finished PS&E. After the meeting, MGE will compile and produce the final PS&E documents. Structure design calculations, independent check calculations, and quantity calculations will be provided. MGE will provide assistance to the County to secure FHWA funding as needed.

#### *Task 8 Deliverables:*

- (3) Sets of 24x36 final design plans
- Copies of Specifications (2 loose-leaf bound, 1 printer ready), in accordance with TPW house style
- Copy of Engineer's Estimate
- Copy of design check calculations and quantities
- Copies of Resident Engineer pending file
- USB drive with electronic versions of all Task 8 deliverables itemized above in DWG, MS Excel or MS Word format, Print ready PDF files of same. Design plans in AutoCAD and PDF formats.

#### *Task 8 County Decision Point:*

- Provide written authorization to proceed

### ***Pre-Construction Engineering Services***

MGE will be available to assist the County to support and defend the project design and contract documents during the construction contract advertising, bidding, and construction phases. Work anticipated to be provided during the course of this Task includes the following:

- Attend the County's Pre-Bid Meeting
- Respond in writing to written Requests for Information (RFI's)
- Assist the County in creating any Addenda to Contract Documents as necessary

### ***Construction Support Services***

#### **CONSTRUCTION SUPPORT**

- Attend the County's Pre-Construction Meeting
- Respond in writing to any Contractor RFI's
- Review Contractor submittals for conformance to project PS&E requirements
- Evaluate any Contractor Change Order Requests, as necessary
- Field inspection by Consultant's (or sub-consultant's) Geotechnical Engineer during excavation work, to confirm foundation conditions encountered by construction work
- Compile and prepare final post-construction Project As-Built drawing set, based on marked-up plans provided by the County's Resident Engineer

#### ***Deliverables:***

- As-Built Drawing Set (1 hard copy set of 24"x36" paper format, 1 hard copy set of 11"x17" paper format, 1 electronic set in Adobe PDF format)
- As-Built drawing set, in Adobe PDF format

#### **CONTRACT CLAIMS RESOLUTION**

MGE's Construction Manager will be available to review and analyze notices of potential claims (NOPC) and assist the County PM/RE in performing claims administration including coordinating and monitoring claims response preparation, logging claims, tracking claims status, analyzing additional compensation claims and making recommendations to the County. MGE can coordinate with the County and Construction contractors regarding construction operations associated with NOPC's submitted by the Contractor with respect to time, equipment, material and labor costs.

### ***Cost Control and Budgeting Methodology***

MGE is a California corporation in good standing and financially stable. MGE's labor charging, job costing, and accounting systems meet GAAP, FAR and Code of Federal Regulations standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred. MGE has passed Caltrans audits and pre-awards audits, and our accounting systems and procedures meet contract and LAPM requirements. MGE has verifiable internal controls and procedures in place to support the firm's overhead rates.

MGE uses our internal controls and procedures to monitor project expenditures and maintain budget and schedule at a task level. By maintaining control at the task level, project managers can adjust resources and budget when necessary to maintain the overall project budget and schedule. By receiving project budget and progress reports on a weekly basis, MGE's project manager can easily track project task progress, personnel and direct charges, subconsultant tasks, and budget health.

**EXHIBIT 10-H1 COST PROPOSAL** Page 1 OF 3  
**COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS**  
 (DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

Prime Consultant

☐ Subconsultant

2nd Tier Subconsultant

Consultant MGE Engineering, Inc.Project No. Sites 13.61, 13.97, 19.67, & 20.01 (Summary)

Contract No. \_\_\_\_\_

Date 3/24/2020**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Principal In Charge	Robert Sennett	82	\$96.00	\$7,872.00
Supervisory Civil Engineer	Stephen Hawkins	42	\$80.00	\$3,360.00
Lead Civil	Joe Siemers	353	\$68.00	\$24,004.00
Project Manager	Martin McIlroy	404	\$75.00	\$30,300.00
Senior Structural	Wes Sennett	1,051	\$66.00	\$69,366.00
Senior Structural	Danny Vang	408	\$79.00	\$32,232.00
Independent Check	Eric Monzon	0	\$71.50	\$0.00
Structural CAD	Peter Zhou	836	\$58.00	\$48,488.00
Civil CAD	Kai Wang	908	\$54.00	\$49,032.00
Senior Civil Engineer	Brad Reichel	991	\$65.00	\$64,415.00

Total Hours 5,075

**LABOR COSTS**

a) Subtotal Direct Labor Costs

\$329,069.00

b) Anticipated Salary Increases (see page 2 for calculation)

\$4,606.97

**c) TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$333,675.97**INDIRECT COSTS**

d) Fringe Benefits

(Rate: 51.47%)

e) Total Fringe Benefits [(c) x (d)] \$171,743.02

f) Overhead

(Rate: 114.48%)

g) Overhead [(c) x (f)] \$381,992.25

h) General and Administrative

(Rate: 0.00%)

i) Gen &amp; Admin [(c) x (h)] \$0.00

**j) TOTAL INDIRECT COSTS [(e) + (g) + (i)]** \$553,735.27**FIXED FEE**(Rate: 10.00%)**k) TOTAL FIXED FEE [(c) + (j)] x (q)]** \$88,741.12**l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs	2100	mile	\$ 0.575	\$1,207.50
Reproduction	1	lump sum	\$ 1,500.00	\$1,500.00
Special Deliveries	10	each	\$ 40.00	\$400.00

**l) TOTAL OTHER DIRECT COSTS** \$3,107.50**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Cinquini & Passarino (Survey and Right-of-way)	\$	149,378.42
NCE (Environmental)	\$	109,665.45
Crawford & Associates (Geotechnical)	\$	364,136.87

**m) TOTAL SUBCONSULTANTS' COSTS** \$ 623,180.74**n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l)+(m)]** \$626,288.24**TOTAL COST [(c) + (j) + (k) + (n)]** \$1,602,440.59

NOTES:

1. Key personnel **must** be marked with an asterisk (\*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (\*\*). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary increases calculation (page 2) must accompany.

**EXHIBIT 10-H1 COST PROPOSAL** Page 2 of 3  
**COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS**  
(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

**1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)**

Direct Labor <u>Subtotal</u> per Cost Proposal	Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$329,069.00	5075	=	\$64.84	Year 1 Avg Hourly Rate

**2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)**

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$64.84	+	4.0%	=	\$67.43	Year 2 Avg Hourly Rate
Year 2	\$67.43	+	4.0%	=	\$70.13	Year 3 Avg Hourly Rate
Year 3	\$70.13	+	4.0%	=	\$72.94	Year 4 Avg Hourly Rate
Year 4	\$72.94	+	4.0%	=	\$75.86	Year 5 Avg Hourly Rate
Year 5	\$75.86	+	4.0%	=	\$78.89	Year 6 Avg Hourly Rate
Year 6	\$78.89	+	4.0%	=	\$82.04	Year 7 Avg Hourly Rate

**3. Calculate estimated hours per year (Multiply estimate % each year by total hours)**

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	65.00%	*	5075.0	=	3298.8	Estimated Hours Year 1
Year 2	35.00%	*	5075.0	=	1776.3	Estimated Hours Year 2
Year 3	0.00%	*	5075.0	=	0.0	Estimated Hours Year 3
Year 4	0.00%	*	5075.0	=	0.0	Estimated Hours Year 4
Year 5	0.00%	*	5075.0	=	0.0	Estimated Hours Year 5
Year 6	0.00%	*	5075.0	=	0.0	Estimated Hours Year 6
Total	100%		Total	=	5075.0	

**4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)**

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$64.84	*	3298.8	=	\$213,894.85	Estimated Hours Year 1
Year 2	\$67.43	*	1776.3	=	\$119,781.12	Estimated Hours Year 2
Year 3	\$70.13	*	0.0	=	\$0.00	Estimated Hours Year 3
Year 4	\$72.94	*	0.0	=	\$0.00	Estimated Hours Year 4
Year 5	\$75.86	*	0.0	=	\$0.00	Estimated Hours Year 5
Year 6	\$78.89	*	0.0	=	\$0.00	Estimated Hours Year 6
Total Direct Labor Cost with Escalation				=	\$333,675.97	
Direct Labor Subtotal before Escalation				=	\$329,069.00	
Estimated total of Direct Labor Salary Increase				=	<b>\$4,606.97</b>	Transfer to Page 1

**NOTES:**

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.  
(i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

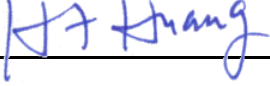
- 1 Generally Accepted Accounting Principles (GAAP)
- 2 Terms and conditions of the contract
- 3 Title 23 United States Code Section 112 - Letting of Contracts
- 4 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
- 5 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
- 6 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

**Prime Consultant or Subconsultant Certifying:**

Name: H. Fred Huang, PE Title \*: President

Signature :  Date of Certification (mm/dd/yyyy): \_\_\_\_\_

Email: [fhuang@mgeeng.com](mailto:fhuang@mgeeng.com) Phone Number: 916-421-1000

Address: 7415 Greenhaven Drive, Suite 100, Sacramento, CA 95831

\*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Management, design and PS&E of storm damage repair projects including surveying, geotechnical, and environmental services.

## **Exhibit C - Insurance**

With respect to performance of work under this Agreement, Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

County reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

### **1. Workers Compensation and Employers Liability Insurance**

- a. Required if Consultant has employees as defined by the Labor Code of the State of California.
- b. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- c. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- d. *Required Evidence of Insurance*: Certificate of Insurance.

If Consultant currently has no employees as defined by the Labor Code of the State of California, Consultant agrees to obtain the above-specified Workers Compensation and Employers Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

### **2. General Liability Insurance**

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, County requires and shall be entitled to coverage for the higher limits maintained by Consultant.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County. Consultant is responsible for any deductible or self-insured retention and shall fund it upon County's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving the County.
- d. **The County of Sonoma, its Officers and Employees** shall be endorsed as additional insureds for liability arising out of operations by or on behalf of the Consultant in the performance of this Agreement.

- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in ISO form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a “separation of insureds” or “severability” clause which treats each insured separately.
- h. Required Evidence of Insurance:
  - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
  - ii. Certificate of Insurance.

### **3. Automobile Liability Insurance**

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limits may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

### **4. Professional Liability/Errors and Omissions Insurance**

- a. Minimum Limits: \$1,000,000 per claim or per occurrence; \$1,000,000 annual aggregate.
- b. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by County.
- c. If Consultant’s services include: (1) programming, customization, or maintenance of software; or (2) access to individuals’ private, personally identifiable information, the insurance shall cover:
  - i. Breach of privacy; breach of data; programming errors, failure of work to meet contracted standards, and unauthorized access; and
  - ii. Claims against Consultant arising from the negligence of Consultant, Consultant’s employees and Consultant’s subcontractors.
- d. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work.
- e. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- f. Required Evidence of Insurance: Certificate of Insurance specifying the limits and the claims-made retroactive date.

## **5. Standards for Insurance Companies**

Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Bests rating of at least A:VII.

## **6. Documentation**

- a. The Certificate of Insurance must include the following reference: 2019 Flood Disaster – Stewart’s Point Skaggs Springs Road Slide Repair Project
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Consultant agrees to maintain current Evidence of Insurance on file with County for the entire term of this Agreement and any additional periods if specified in Sections 1 – 4 above.
- c. The name and address for Additional Insured endorsements and Certificates of Insurance is: David Cameron, 2300 County Center Drive, Suite B100, Santa Rosa, CA 95403, [david.cameron@sonoma-county.org](mailto:david.cameron@sonoma-county.org)
- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Consultant shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

## **7. Policy Obligations**

Consultants indemnity and other obligations shall not be limited by the foregoing insurance requirements.

## **8. Material Breach**

If Consultant fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. County, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, County may purchase the required insurance, and without further notice to Consultant, County may deduct from sums due to Consultant any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.