RESOLUTION - ACTION REQUESTED 2020-385

MEETING: July 7, 2020

TO: The Board of Supervisors

FROM: Mike Healy, Public Works Director

RE: Approve an Agreement for Bridge Replacement for Foresta Rd Bridge 40C0055

RECOMMENDATION AND JUSTIFICATION:

Approve an Agreement with MGE Engineering, Inc in a Amount Not to Exceed of $171,348.23 for Bridge Replacement for Foresta Road Bridge 40C0055; and Authorize the Board of Supervisors Chair to Sign the Agreement.

The Foresta Road Bridge (40C0055) was damaged in the El Portal fire in 2014. Emergency funding was not available at the time, so the bridge was programmed into the Highway Bridge Program (HBP). Due to the nature of the Foresta Road system which consists of narrow roads and steep cliffs, the road was designated to be “one-way” from Foresta to El Portal.

The HBP projects are funded 100% by FHWA, and require no local share. The current contract is for the first phase of work that includes survey, hydrology, and environmental review to determine the type of bridge to install. Depending on these results, future phases of work may be required.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On October 2019, staff requested Statements of Qualifications (SOQ) for engineering design services for the two bridges on Forest Road. The proposal by MGE was selected among five submitted SOQ's according to established state criteria.

On July 10, 2018 Resolution 2018-335 the Board authorized the Director of Public Works to Negotiate Terms with Stanislaus National Forest in Order to Declare Foresta Road a One Way Road Between Buckeye Road to the End of the County Maintained Roadway System.

On October 6, 2015 Resolution 2015-473 the Board approved the bridge to be added to the Program Supplement Agreement with the State of California Department of Transportation.

On October 21, 2014 the Public Works Director asked for direction regarding bridge
Resolution - Action Requested 2020-385

repair for damage resulting from heavy equipment during the El Portal Fire.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**
Do not approve, the bridge repair will not move forward and funds for this improvement are subject to de-obligation.

**FINANCIAL IMPACT:**
There is no local share associated with this work as this is funded 100% through the Highway Bridge Program funded by FHWA

**ATTACHMENTS:**
MGE Eng 20-063 Foresta #55  (PDF)
Foresta Bridge Proposal  (PDF)

**RESULT:**  ADOPTED [UNANIMOUS]
**MOVER:**  Rosemarie Smallcombe, District I Supervisor
**SECONDER:**  Miles Menetrey, District V Supervisor
**AYES:**  Rosemarie Smallcombe, Marshall Long, Miles Menetrey
**EXCUSED:**  Merlin Jones, Kevin Cann
AGREEMENT FOR ENGINEERING SERVICES FOR THE REPLACEMENT FORESTA ROAD BRIDGE (40C0055)

THIS AGREEMENT ("Agreement") is made and entered into this 7th day of July, 2020, by and between the County of Mariposa, a political subdivision of the State of California, ("County"), and MGE Engineering, Inc. ("Contractor"), pursuant to the following terms and conditions.

WITNESSETH:

1. TERM

The term of this Agreement shall commence on July 7, 2020 and terminate on July 30, 2023 unless extended as provided by this Agreement.

2. SERVICES

Contractor shall perform engineering services for the replacement of Foresta Road Bridge (40C0055) as described in Exhibit A, “Scope of Work,” which is attached hereto and incorporated herein by reference. Contractor shall provide all staffing and materials necessary to perform the Scope of Work.

3. COMPENSATION

Contractor shall be compensated for services performed in an amount not to exceed $171,348.23. The Contractor’s hourly rates are listed in Exhibit B, “Cost Proposal.” The County shall pay Contractor within thirty (30) days of receipt of an approved invoice.

4. INSURANCE

Contractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO)Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit

1

Last revised: 7/2/18
shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto, (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than $1,000,000 per accident for bodily injury and property damage.

(3) Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor’s profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. OTHER INSURANCE PROVISIONS

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

(1) Additional Insured Status: The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).

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

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

(4) Waiver of Subrogation: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that
may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

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

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

(7) Verification of Coverage: Contractor shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Subcontractors: Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that County is an additional insured on insurance required from subcontractors.

(9) Special Risks or Circumstances: County reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

5. HOLD HARMLESS/INDEMNIFICATION

Contractor shall hold harmless, defend and indemnify County and its officers, employees, agents, and volunteers, from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor’s performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of County.

6. INDEPENDENT CONTRACTOR

It is the expressed intention of the parties that Contractor is an independent contractor and not an employee, agent, joint venturer or partner of County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between County and Contractor or any employee or agent of Contractor. Both parties acknowledge that Contractor is not an employee for state or federal tax purposes. Contractor shall retain the right to perform services for others during the term of this Agreement.

7. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)
In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

8. **STATE AND FEDERAL TAXES**

As Contractor is not County’s employee, Contractor is responsible for paying all required state and federal taxes. In particular:

a. County will not withhold FICA (Social Security) from Contractor’s payments;
b. County will not make state or federal unemployment insurance contributions on behalf of Contractor;
c. County will not withhold state or federal income tax from payment to Contractor;
d. County will not make disability insurance contributions on behalf of Contractor;
e. County will not obtain workers’ compensation insurance on behalf of Contractor.

9. **ASSIGNMENT**

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

10. **NOTICE**

Any and all notices, reports or other communications to be given to County or Contractor shall be given to the persons representing the respective parties at the following addresses:

**CONTRACTOR:**
MGE Engineering, Inc.
7415 Greenhaven Dr. Suite 100
Sacramento, CA 95831
916.421.1000

**COUNTY:**
Public Works
4639 Ben Hur Rd.
Mariposa, CA 95338
209.966.5356

11. **COMPLIANCE**

Contractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Contractor’s performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Contractor shall not engage in unlawful employment
discrimination, including, but not limited to, discrimination based upon a person’s race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law. Refer to attached Articles IV through VI of the Federal Provisions (Exhibit 10-R)

12. PUBLIC RECORDS ACT

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

13. ENTIRE AGREEMENT AND MODIFICATION

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

14. ENFORCEABILITY AND SEVERABILITY

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

15. TERMINATION AND RIGHTS UPON TERMINATION

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

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

C. Should Contractor default in the performance of this Agreement or materially breach any of its provisions, County, at its option, may terminate this Agreement by giving written notification to Contractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of County property, dishonesty, or theft.
16. NO WAIVER

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

17. DISPUTES

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

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

18. CAPTIONS

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

19. NUMBER AND GENDER

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

20. MANDATORY AND PERMISSIVE

“Shall” is mandatory. “May” is permissive.

21. SUCCESSORS AND ASSIGNS

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

22. COUNTERPARTS

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

23. OTHER DOCUMENTS

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

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

25. **AUTHORITY**

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

26. **NEGOTIATED AGREEMENT**

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

27. **NO RELIANCE ON REPRESENTATIONS**

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

28. **WARRANTY**

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

29. **FUNDING AVAILABILITY**

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

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

Funding Source:

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

COUNTY OF MARIPOSA

[Signature]
Kevin Cann, Chair
Board of Supervisors
By Marshall Long, Vice-Chair

CONTRACTOR

[Signature]
MGE Engineering

ATTEST:

[Signature]
Rene LaRoche
Clerk of the Board

APPROVED AS TO FORM:

[Signature]
Steven W. Dahlen
County Counsel
EXHIBIT "A"

Foresta Road Bridge Over Cane Creek Bridge Replacement Project
Bridge No. 40C0055, Project No. 1312-1602, BRLO-5740(122)

SCOPE OF WORK

MGE's proposed scope of work to successfully complete this project, delineated by major and minor work tasks is outlined as follows:

TASK 0 - PROJECT MANAGEMENT

This task applies to all three phases of the project. Items are summarized below, while specific items are included as subtasks throughout the following work plan and included in the labor hour estimate and project schedules accordingly.

TASK 0.1 - COMMUNICATION AND COORDINATION

MGE will work closely with and coordinate with staff and specialty subconsultants as required to facilitate and ensure successful project delivery. This will include written communication via telephone or email as well as face-to-face meetings as required throughout the term of the contract.

TASK 0.2 - MEETINGS

MGE will participate in meetings as necessary to complete the design tasks and coordinate between technical disciplines. Project development team (PDT) meetings will be organized by MGE to occur at specified milestones during the project development and design process. MGE will prepare meeting agendas and minutes for all PDT meetings. This task will also include a project kick-off meeting followed by a site visit.

TASK 0.3 - PROJECT SCHEDULE

MGE will prepare a detailed project schedule. The schedule will be updated quarterly.

TASK 0.4 - PROGRESS REPORTS & INVOICING

MGE will submit a monthly Progress Report to accompany invoices. The reports will include a narrative on work accomplished during the reporting period; work planned for the next reporting period; information/decisions required to maintain the Project schedule and complete deliverables; problems encountered that may affect the schedule, budget, and anticipated work items; and recommendations to resolve issues.

Deliverables: Meeting Agendas and Minute, Project Schedule, Progress Reports & Invoices.

PHASE I – PRELIMINARY ENGINEERING (TASKS 1-5)

Phase 1 will include surveying, preliminary geotechnical engineering, preliminary hydrologic and hydraulic analysis, alternative analysis and Type Selection, and preliminary environmental studies and assessments. Phase 1 services will include the following tasks:

TASK 1 - TOPOGRAPHIC SURVEYING

O'dell will perform surveying and base mapping necessary for the project.

MAPPING LIMITS

Bridge locations are identified as 40C0054 and 40C0055, located along Foresta Road in the northeast ¼ of Section 9 and the northwest ¼ of Section 10, Township 3 South, Range 20 East, Mariposa County, CA. Roadway cross-sections will include 750 feet of roadway on each side of the bridge (measured along the centerline) and extend as far as practical beyond the edge of traveled way (minimum 5 feet each side). Crane Creek cross-sections will include 750 feet upstream, and 500 feet downstream of each bridge (measured along the thread) and extend up to 25 feet beyond any readily available top of bank on each side, encompassing a minimum width of 60 feet total.

The survey shall include, but not be limited to, the following:

MGE Engineering, Inc. |
Establish survey control for the project based on the NAD83 horizontal datum and the NAVD88 vertical datum.

Perform cross-section survey of Foresta Road at 50-foot intervals.

Perform cross-section survey of Crane Creek at 50-foot intervals.

Perform topographic survey of all hardscape and softscape, including: grade breaks, high points, low points. In flat areas, measure spot elevations in a grid pattern at 50-foot intervals.

Perform detailed topographic survey of existing bridge, including deck, piles, bents, abutments, soffits, and any other significant structural elements.

Locate surface-visible utility features and improvements, such as: signs, fences, walls, buildings, striping, driveways, walkways, drainages, structures, lights, poles, bollards, general limits of vegetated or landscaped areas, USA markings, vaults, valves, meters, boxes, pedestals, cleanouts, manholes, drain inlets, catch basins, culverts, outfalls, and standpipes.

Trees 6" in diameter or larger will be located.

Prepare topographic map at a 1" = 20' scale.

DELIVERABLES:

- Digital copy of the topographic survey in AutoCAD Civil 3D 2018 format.

Understandings:

- Attendance at 1 meeting for 2 people is included.
- The client will provide O’Dell Engineering with access.
- Areas with obstructions may not be mapped.
- CAD deliverables will be prepared using the software noted above. Client shall verify compatibility prior to the start of work. Additional charges and delays may apply if changes are requested after the preparation of deliverables has begun.
- Scope assumes that traffic control will not be required. If traffic control is needed due to project conditions or local agency requirements a briefing with the Client will be arranged, and work will proceed only after authorization from the Client. The Client will be responsible for costs associated with traffic control.
- Survey control will be based on the NAD83 horizontal datum and the NAVD88 vertical datum. A survey control statement will be provided, including: the location, elevation, and description of the benchmark utilized, as well as a horizontal survey coordinate table with the point number, northing, easting, and description for at least three (3) points.

Exclusions:

- Fees.
- Survey of small trees, shrubs, and other vegetation.
- Subsurface utility locating.
- Researching records of utility owners/operators.
- Mapping of subsurface features.
- Potholing or other field verification of subsurface utility features.
- Survey monument preservation as defined and required by Section 8771 of the Professional Land Surveyors’ Act.
• Special title research, preparation of chain-of-title, and research of documents not maintained in the records of the County Surveyor or County Clerk and Recorder.
• Boundary research, boundary field surveys, land title research, or location of property corner monuments to establish survey-grade parcel boundaries or right-of-way boundaries.
• Land title research needed to establish right-of-way ownership, or right-of-way status as a fee ownership or easement right.

Task 2 - Preliminary Utility Coordination

Task 2.1 - Prepare Utility “A” Letters
MGE will prepare Utility “A” Letters on County letterhead for mailing by the County.

Task 3 - Preliminary Geotechnical Engineering

Task 3.1 - Preliminary Foundation Memorandum (PFM)
MGE will prepare a PFM as part of the preliminary engineering phase for bridge type selection. MGE will review record documents, published geologic data, aerial photographs, and survey and topographic data. Following data review a site reconnaissance, will be performed to evaluate the existing foundation conditions and perform non-destructive refraction seismic testing, Schmidt Hammer Testing, and collect rock specimens for compressive strength tests, as necessary. MGE will also map rock joints and their orientations to evaluate rock stability near the proposed bridge supports. MGE Engineering will prepare a PFM that is expected to include:

• Project location and vicinity map;
• Summary of site geology and subsurface conditions, based on review of available record documents, published geologic data, our geologic reconnaissance and results of seismic surface wave data;
• Seismic data and evaluation using current Caltrans seismic design criteria including design ARS curve using Caltrans ARS Online tool;
• Liquefaction and settlement considerations;
• Approach roadway considerations;
• Preliminary foundation alternatives, e.g., CIDH piling, driven piles, spread footing foundations, etc.;
• Preliminary foundation recommendations with conditions and constraints on likely foundation types; and
• Preliminary construction considerations.

Deliverables: Final PFM in electronic PDF format and one original signed hard copy

Task 3.2 - Laboratory Testing
Laboratory tests to characterize geotechnical properties will be conducted on selected soil and rock samples collected from the project site. A laboratory test quantity estimate follows. However, actual number and type of tests would depend on the type of soil encountered.

4 - Moisture Content - Unit Dry Weight (ASTM-D2216 – ASTM-D4767)
   1 - Sieve Analysis (ASTM-D6913)
   1 - Plasticity Index (ASTM-D4318)
   1 - Resistance Value (CTM-301)
   10 - Point Load Index (ASTM-D5731)
   2 - Soil Corrosivity (pH/minimum resistivity/sulfate/chloride content)
MGE will perform one R-value test to evaluate subgrade materials for new pavement section recommendations. Rock tests (point load test) are contingent upon recovering rock samples suitable for testing. The rock tests will provide rock strength information and will be used to estimate rock elastic modulus required for bearing calculations. Laboratory tests will be in general accordance with appropriate ASTM and/or Caltrans Standards.

**Task 3.3 - Engineering Evaluation and Analysis**

Engineering evaluation and analyses to develop geotechnical recommendations for this project will include: spread footing bearing capacity, liquefaction, settlement, lateral spreading, slope stability, seismic design parameters, lateral earth pressures for retaining walls, soil corrosivity, and flexible pavement design.

**Task 3.3.1 - Liquefaction**

MGE will evaluate liquefaction potential at the site using the data collected from the site and liquefaction-induced ground settlement and lateral spreading.

**Task 3.3.2 - Foundation Settlement**

MGE will calculate foundation settlement under static and seismic loading at the proposed abutments and intermediate support locations. We will perform these calculations using final structure loads, grades, and embankment heights for the abutment approaches. We will also evaluate downdrag on piles resulting from static load and liquefaction-induced ground settlement, if applicable.

**Task 3.3.3 - Bridge Embankment Slope Stability**

MGE will not perform embankment slope stability analyses.

**Task 3.3.4 - Design Ground Motion Parameters**

MGE will calculate seismic spectral acceleration parameters using the Caltrans ARS Online and the USGS 2008 Interactive Disaggregation website for our engineering calculations. A site specific seismic hazard analysis will not be performed for this project.

**Task 3.3.5 - Lateral Earth Pressures**

MGE will calculate lateral earth pressures for the abutment walls and wingwalls that are part of the bridge structure. It is assumed that abutment wall stability for overturning, sliding, etc. will be evaluated by others.

**Task 3.3.6 - Corrosivity**

MGE will test two soil samples collected from the site for corrosivity. The corrosivity of the surface water or groundwater conditions will not be evaluated.

**Task 3.3.7 - Gravel Road Design**

MGE will provide recommendations for gravel road design based on the R-value test results and four estimated Traffic Indices based on the current traffic load. Calculations will generally follow the current Caltrans Highway Design Manual Chapter 600 (considered current at the date of this proposal) and the South Dakota Gravel Roads Maintenance and Design Manual, and the UC Davis Unpaved Road Chemical Treatment Selection Tool.

**Task 3.4 - Draft Foundation Report**

MGE will prepare a Draft Foundation Report that summarizes the results of our study; makes specific recommendations for proposed foundation elements; discusses subsurface soils and groundwater conditions encountered that may affect foundation design, construction, and service; and includes a plan drawing suitable of rock test locations and sample collection areas. MGE will provide seismic criteria for use in structure design (peak ground acceleration, soil profile type, ARS curve, etc.) in
accordance with Caltrans practice, including an evaluation of the potential geohazards such as seismically induced liquefaction, settlement, and ground instability. The Draft Foundation Report will include geotechnical design criteria for the approach roadway sections. The Draft Foundation Report will include:

- Summary of geotechnical services
- Vicinity map
- Site plan
- Site description
- Project description
- Description of field exploration
- Laboratory test results
- Site geology and subsurface conditions
- Seismic data and ground motion evaluation
- Caltrans ARS curve
- Scour considerations (based on hydraulics report prepared by others)
- Corrosion evaluation
- Liquefaction and settlement evaluation
- Foundation design recommendations
- Approach roadway and subgrade design recommendations
- Pavement/Gravel Road design recommendations
- Construction considerations

MGE will deliver the draft report in electronic PDF format to the design team for review and comment. The Final Foundation Report will be prepared in Phase II of the project.


**Task 4 - Preliminary Hydrologic and Hydraulic Analysis**

Hydrologic and Hydraulic studies shall be performed as necessary.

**Task 4.1 - Obtain and Review Project Documentation**

Avila and Associates will obtain relevant project information including but not limited to information on the existing bridge such as supplemental bridge maintenance reports. Assumptions: 1) Reports are public information and readily available, 2) Bridge maintenance records are readily available for use by Avila and Associates.

*Deliverable:* None.

**Task 4.2 - Estimate Hydrology**

Estimate the 50-year, 100-year discharges using the development of complex watershed runoff hydrograph with HEC-HMS. A second method will be utilized to estimate hydrology to facilitate Caltrans coordination who still often request hydrology estimates two ways per the previous Local Assistance Program Manual.

*Deliverables:* Discharge estimates will be summarized in an appendix to the Final report outlined in Task 5.

**Task 4.3 - Hydraulic Analysis**

Based on survey information, Avila will set up an existing conditions HEC-RAS model for reach using HEC-RAS. Calibration data will be researched to determine if any high-water elevations were documented for the flood of record. The proposed bridge will be modeled to determine the impact to the water surface elevation and velocity of the proposed strategy. The model will also incorporate any encroachment from bridge approach fills. The hydraulic variables (water surface elevation, velocity etc.) will be determined for the design discharge, 50-, 100-year discharges estimated above. Results from the hydraulic analysis will be provided in both tabular as well as graphical output formats. Assumptions: It is assumed that the proposed bridge configuration will not increase the water surface elevation.

*Deliverables:* Hydraulic Analysis to be provided in graphical as well as tabular format in
Task 4.4 – Scour and Bank Protection

Estimate scour and the need for bank protection. Review maintenance records for the existing and adjacent bridges to determine if the stream has aggraded or degraded over time. Local scour will be estimated using the methods described in the Federal Highway Administration (FHWA) Publication HEC-18, Evaluating Scour at Bridges. The Colorado State University Equation (CSU) will be used for estimating local pier scour as recommended in the Federal Highway Administration (FHWA) Publication HEC-18, Evaluating Scour at Bridges. Calculations will be completed to determine the need for bank protection. If bank protection is required, parameters will be provided according to Chapter 870 of the Caltrans Highway Design Manual.

Assumptions: 1) Degradation estimates utilize straight line extrapolation based on available cross sections at the bridges. 2) If hydraulic calculations show that bank protection is necessary, it is assumed that rock slope protection will be utilized as the bank protection, if alternative bank protection is requested, a separate task order will be necessary. Final bank protection plans and specifications by others.

Deliverables: Sketches showing plan, profile and layer thickness for RSP.

Task 4.5 – Draft/Final Preliminary Hydraulic Report

Complete a Draft and Final Preliminary Hydraulic Report documenting the hydrology, hydraulics, scour and bank protection for the bridge. Revise the Draft Report based on comments received. Assumptions: One draft (electronic) draft report.

Deliverables: Draft and Final Hydraulic Report will be provided via electronic mail.

Task 5 – Preliminary Engineering and Type Selection Report

The purpose of this task is to complete enough preliminary design to select a preferred alternative for the project. Under this task, MGE will complete the following tasks:

Task 5.1 – Type Selection Report

MGE will complete bridge and roadway engineering for the project and prepare a Type Section Report for the project to facilitate selection of a preferred bridge alternative for both sites. The Type Selection Report will serve as the basis for the environmental assessment and final design. A draft Report will be prepared including a bridge General Plan sheet and Plan & Profile sheet for roadway geometrics for each alternative, evaluation of alternatives, preliminary Engineer’s estimate, and recommend a preferred alternative. Completion of the Report will include, but not be limited to the following:

Task 5.1.1 – Alternatives Development

MGE will develop two alternatives for each site including roadway geometrics and bridge configurations/types. Estimated construction costs for each alternative will be developed.

Task 5.1.2 – Draft Type Selection Report

MGE will complete a draft Type Selection Report to present design and construction considerations, and bridge alternatives with construction costs to facilitate selection of a preferred project for design and construction. The draft Report will include discussions of the following items:

<table>
<thead>
<tr>
<th>General Description of the Project</th>
<th>Roadway Geometry and Typical Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Control/Detour</td>
<td>Approach Roadways</td>
</tr>
<tr>
<td>Right-of-Way (permanent &amp; temporary easements)</td>
<td>Drainage</td>
</tr>
<tr>
<td>Utilities</td>
<td>Design Exceptions</td>
</tr>
<tr>
<td>Hydraulics &amp; Scour</td>
<td>Geotechnical</td>
</tr>
<tr>
<td>Construction Access &amp; Staging</td>
<td>Aesthetic Requirements</td>
</tr>
<tr>
<td>Bridge Railings</td>
<td>Bridge Removal</td>
</tr>
</tbody>
</table>

MGE Engineering, Inc. |
MGE will submit the draft Report to the County for review and selection of a preferred alternative.

**Task 5.1.3 – Review and Respond to County and Caltrans Review Comments**
MGE will review and respond to all County and Caltrans review comments. MGE will coordinate with the County and Caltrans to resolve comments as necessary.

**Task 5.1.4 – Type Selection Meeting at County Office**
MGE will participate in a meeting at the County’s office to discuss the Type Selection Report and finalize any outstanding issues regarding selection of a preferred alternative.

**Task 5.1.5 – Final Type Selection Report**
MGE will prepare a final Type Selection Report that includes the incorporation and/or resolution of all County comments on the draft Report. The bridge General Plan sheet and roadway Layout & Profile sheet for the preferred alternatives are considered a 30% level of design, and will serve as the basis of completion of the environmental documentation and final design for the project.

**Deliverables:** Draft and Final Type Selection Report (2 copies each and electronic pdf files)
## EXHIBIT "B"

### RIGE Engineering

### COST PROJECTION

FOWLER ROAD (former CRANE CREEK RIGE DEVELOPMENT PROJECT) REV. 10-20-04

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Task 0</th>
<th>Task 1</th>
<th>Task 2</th>
<th>Task 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.1</td>
<td>Administration and Coordination</td>
<td>$25,000</td>
<td>$20,000</td>
<td>$15,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>0.2</td>
<td>Meetings</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>0.3</td>
<td>Pre-Construction</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>0.4</td>
<td>Site Preparation</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>1.1</td>
<td>Topographic Survey</td>
<td>Task 0 Total: $83,000</td>
<td>Task 1 Total: $62,000</td>
<td>Task 2 Total: $51,000</td>
<td>Task 3 Total: $40,000</td>
</tr>
<tr>
<td>2.1</td>
<td>Civil Engineering</td>
<td>Task 4 Total: $100,000</td>
<td>Task 5 Total: $80,000</td>
<td>Task 6 Total: $60,000</td>
<td>Task 7 Total: $40,000</td>
</tr>
<tr>
<td>2.2</td>
<td>Structural Engineering</td>
<td>Task 8 Total: $70,000</td>
<td>Task 9 Total: $50,000</td>
<td>Task 10 Total: $30,000</td>
<td>Task 11 Total: $10,000</td>
</tr>
<tr>
<td>3.1</td>
<td>Preliminary Design</td>
<td>Task 12 Total: $60,000</td>
<td>Task 13 Total: $40,000</td>
<td>Task 14 Total: $20,000</td>
<td>Task 15 Total: $10,000</td>
</tr>
<tr>
<td>4.1</td>
<td>Site Investigation</td>
<td>Task 16 Total: $50,000</td>
<td>Task 17 Total: $40,000</td>
<td>Task 18 Total: $30,000</td>
<td>Task 19 Total: $20,000</td>
</tr>
<tr>
<td>5.1</td>
<td>Environmental Site Impact</td>
<td>Task 20 Total: $40,000</td>
<td>Task 21 Total: $30,000</td>
<td>Task 22 Total: $20,000</td>
<td>Task 23 Total: $10,000</td>
</tr>
</tbody>
</table>

**Total Costs:**

- Task 0: $100,000
- Task 1: $150,000
- Task 2: $200,000
- Task 3: $250,000
- Task 4: $300,000
- Task 5: $350,000
- Task 6: $400,000
- Task 7: $450,000
- Task 8: $500,000
- Task 9: $550,000
- Task 10: $600,000
- Task 11: $650,000
- Task 12: $700,000
- Task 13: $750,000
- Task 14: $800,000
- Task 15: $850,000
- Task 16: $900,000
- Task 17: $950,000
- Task 18: $1,000,000
- Task 19: $1,050,000
- Task 20: $1,100,000
- Task 21: $1,150,000
- Task 22: $1,200,000
- Task 23: $1,250,000

**Total Project Cost:** $6,500,000
<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Unit</th>
<th>Base Cost</th>
<th>Percent</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 6</td>
<td>Preliminary Environmental Assessment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 7</td>
<td>Environmental Technical Studies</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 8</td>
<td>Regulatory Permit Applications</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 9</td>
<td>Final Design and Engineering Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 10</td>
<td>Final Design and Engineering Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 11</td>
<td>Final Design and Engineering Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Task 12</td>
<td>Final Design and Engineering Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Costs: $15,064,105

Total Labor Hours: 1,200

Total Material Costs: $19,200,70

Total Cost (Tasks 1 to 12): $19,200,70
FEDERAL PROVISIONS

PERFORMANCE PERIOD

A. This AGREEMENT shall go into effect on July 7, 2020, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY’S Contract Administrator. The AGREEMENT shall end on June 30, 2023, unless extended by AGREEMENT amendment.

B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ALLOWABLE COSTS AND PAYMENTS

A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY 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 approved CONSULTANT’S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY’s approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph “I” of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT’s agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.

C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of $171,348.23. 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 AGREEMENT amendment.

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

E. 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.

F. 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 schedule, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.

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

March 2020
H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY’s Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT’s work. Invoices shall be mailed to LOCAL AGENCY’s Contract Administrator at the following address:

Mariposa County Public Works  
4639 Ben Hur Rd.  
Mariposa, CA 95338  
209.966.5356

I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed $171,348.23.

J. 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.

TERMINATION

A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days’ written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.

C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.

D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
B. The 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.

C. Any costs for which payment has been made to the 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 the CONSULTANT to LOCAL AGENCY.

D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, 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 CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, 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 the CONSULTANT, Subconsultants, and the CONSULTANT’s Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

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 LOCAL AGENCY’S Chief Financial Officer.

B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY’S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.

D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, 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, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator 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.

March 2020
by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

E. CONSULTANT’s Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator 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 IOAI’s review of the ICR audit work papers created by the CONSULTANT’s independent CPA, IOAI 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 IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) 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 IOAI.

Accepted rates will be as follows:

a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.

b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.

c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI 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. IOAI 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 paragraph E, or if IOAI 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 accepted 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 LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST
SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

SUBCONTRACTING
A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants 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 the CONSULTANT. The CONSULTANT’s obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY’s obligation to make payments to the CONSULTANT.

B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT’s approved Cost Proposal.

C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.

D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.

E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES
A. Prior authorization in writing by LOCAL AGENCY’s Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars ($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 approved Cost Proposal and exceeding five thousand dollars ($5,000), with prior authorization by LOCAL AGENCY’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 with funds provided under the terms 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 five thousand dollars ($5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY 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 LOCAL AGENCY 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
LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT’s expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.

2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars ($5,000) is credited to the project.

STATE PREVAILING WAGE RATES

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 DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.

B. The 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 (https://dot.ca.gov/programs/construction/labor-compliance). 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 LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY 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.

C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website 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.

   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 LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The 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 LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.

3. Each 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 LOCAL AGENCY 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 the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.

5. The CONSULTANT shall inform LOCAL AGENCY 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. The 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 the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY 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, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY 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 the AGREEMENT by the 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 the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the
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 the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the 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 the 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, the 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, LOCAL AGENCY shall notify the 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 LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY 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, the 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 LOCAL AGENCY.

G. Hours of Labor
Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars ($25) for each worker employed in the execution of the AGREEMENT by the 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 the prime AGREEMENT or the subagreement exceeds thirty thousand dollars ($30,000), the 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. CONSULTANTS 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. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

CONFLICT OF INTEREST

A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.

B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY 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 LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.

C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

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

PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:

1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.

2. If any funds other than Federal 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 CONSULTANT shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

B. 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. 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.

C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars ($100,000), and that all such subrecipients shall certify and disclose accordingly.

NON-DISCERNMENT CLAUSE AND STATEMENT OF COMPLIANCE

A. The CONSULTANT’s signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.

B. 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.
C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (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 LOCAL AGENCY 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.

D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY 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 LOCAL AGENCY shall require to ascertain compliance with this clause.

E. 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.

F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.

G. The 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.

H. The 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, the 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.

DEBARMENT AND SUSPENSION CERTIFICATION

A. The CONSULTANT’s signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;

3. Does not have a proposed debarment pending; and

4. 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.
B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. 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.

C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.