

## AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

**THIS AGREEMENT** (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and MGE Engineering Inc. having its principal place of business at 7415 Greenhaven Drive, Suite 100, Sacramento, California 95831 (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Sarah Craig at phone number (805) 568-3060 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Robert Sennett at phone number (916) 421-1000 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Sarah Craig  
Department of Public Works – Transportation Division  
County of Santa Barbara  
123 E. Anapamu Street  
Santa Barbara, CA 93101

To CONTRACTOR: Robert Sennett  
MGE Engineering, Inc.  
7415 Greenhaven Drive, Suite 100  
Sacramento, CA 95831

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** CONTRACTOR shall commence performance on September 22, 2010 and end performance upon completion, but no later than September 30, 2012 unless otherwise directed by COUNTY or unless earlier terminated.

5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 **NOTICES.** above following completion of the increments identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. **INDEPENDENT CONTRACTOR.** CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee,

including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. **TAXES.** COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and other use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR shall agree to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to

this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **NONEXCLUSIVE AGREEMENT.** CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **TERMINATION.**

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience or because of the failure of CONTRACTOR to fulfill the obligations herein. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

1. For Convenience. COUNTY may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, CONTRACTOR shall promptly cease work and notify COUNTY as to the status of its performance.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not effect any right or remedy which COUNTY may have in law or equity.

2. For Cause. Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate this Agreement by written notice, which shall be effective upon receipt by CONTRACTOR.

B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability

shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties 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.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any

other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

30. **RESPONSIBILITY AND LIABILITY FOR SUBCONSULTANTS OR SUB-CONTRACTORS.** Any subsequent contract that CONTRACTOR enters into in the execution of this AGREEMENT with any sub-consultant that is in excess of \$25,000 shall contain all the provisions stipulated in this AGREEMENT and shall become applicable to subcontractors as if COUNTY contracted directly with such sub-consultant. Any approval granted by COUNTY regarding this AGREEMENT shall not constitute nor be deemed a release of responsibility and liability of CONTRACTOR or its sub-consultants or subcontractors for the accuracy or competency of the work performed under this AGREEMENT, nor shall such approval be deemed to be an assumption of such responsibility by COUNTY for any defect in the work of others under the direction of CONTRACTOR.

31. **MODIFICATIONS.** COUNTY may require changes to this AGREEMENT as required by specific project requirements. COUNTY may at any time, by written addendum to CONTRACTOR, make any changes or additions in the services to be performed hereunder (including changes or revisions to previously approved documents or other elements of services). If such changes or additions cause an increase or decrease in CONTRACTOR'S cost of doing work under this contract, or in the time required for its performance, a mutually agreeable, equitable adjustment shall be made, and this AGREEMENT shall be modified by written Addendum. CONTRACTOR claims for an equitable adjustment shall be submitted in writing to COUNTY and shall include a description of the effect of the change upon CONTRACTOR and the estimated cost and time for the CONTRACTOR to perform the services as changed. In no event shall CONTRACTOR be entitled to additional time or costs until and unless a written addendum to this AGREEMENT has been entered into by both parties. CONTRACTOR understands and agrees that this equitable adjustment shall constitute the entire compensation for any changes in time or costs caused by such addendum. CONTRACTOR agrees to perform all work associated with addendum using the same fee schedule set forth as Attachment B1 to this AGREEMENT.

32. **MODIFICATION AMOUNTS.** The total value of this contract is \$ ONE HUNDRED AND FIFTY ONE THOUSAND AND SIX HUNDRED AND FOURTY EIGHT dollars (**\$ 151,648.00**). COUNTY Board of Supervisors authorizes the Director of Public Works to make modifications as may be required by specific project requirements, to the services under this AGREEMENT and authorize, in writing, changes in the services requiring increased compensation to CONTRACTOR of up to \$ 15,164.00 Changes requiring increased compensation which exceed \$ 15,164, must be authorized by the County Board of Supervisors. In no event may any changes in compensation be made without written approval by COUNTY in the form of an addendum.

33. **OTHER.** CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement including Code of Federal Regulations (CFR) Chapter 48 Part 31 or Chapter 49 Part 18. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

34. **STATE RECORDS, AUDIT, AND REVIEW REQUIREMENTS.** The COUNTY, the State, the State 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 CONTRACTOR that are pertinent to the contract for audits, examinations, excerpts, and transaction, and copies thereof shall be furnished if requested.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and MGE Engineering Inc.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA


By: \_\_\_\_\_  
Janet Wolf, Chair  
Board of Supervisors

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

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD


CONTRACTOR  
MGE Engineering, Inc.


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

By:   
SocSec or TaxID Number: 68-0231292

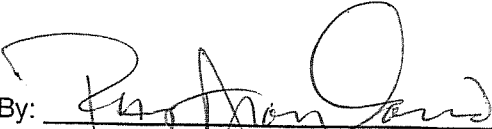
APPROVED AS TO FORM:  
DENNIS MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:  
ROBERT W GEIS, CPA  
AUDITOR-CONTROLLER

By:   
Deputy County Counsel

By:   
Deputy

APPROVED AS TO FORM:  
RAY AROMATORIO  
RISK PROGRAM ADMINISTRATOR

By:   
Risk Program Administrator

**EXHIBIT A**

**STATEMENT OF WORK**

**JALAMA ROAD MILE POST 4.4 STORM DAMAGE REPAIR PROJECT NO. 862258**

**COUNTY OF SANTA BARBARA AGREEMENT WITH MGE ENGINEERING, INC.  
FOR DETAILED ENGINEERING DESIGN  
AS DESCRIBED IN THE FOLLOWING PAGES OF THIS EXHIBIT**

**ATTACHMENT A-1 SCOPE OF WORK**

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**County of Santa Barbara Storm Damage Repair Project**  
**Jalama Road MP 4.4**  
**County Project 862258, Site 3T23**  
**Scope of Work & Schedule For MGE Engineering, Inc.**

**Task 1 – Field Review & Kick-Off Meeting and Agency Meetings**

- Subtask 1.1 – Kick-Off Meeting MGE will meet with County staff to establish project protocol, finalize the schedule, identify important environmental and technical issues, and obtain other appropriate data from the County.
- Subtask 1.2 – Agency Meeting MGE will meet with County staff for Design Review following the 65% milestone submittal. The meetings will discuss submittals, design, and PS&E issues.
- Subtask 1.3 – Field Review – MGE will conduct a field review to verify current site conditions and consistency with contract documents. The Field Review will be scheduled to follow Task 1.2 so that added travel expenses are not incurred.

**Task 2 – Project Management**

- Subtask 2.1 – Technical Supervision – Management and Senior staff will oversee the work to verify quality, accuracy and applicability of the work effort. This task will be ongoing throughout the duration of the design.
- Subtask 2.2 – Progress Reports – MGE will submit monthly Progress Reports/Summary to the County Project Manager. Reports will document completed work, adherence to schedule, outstanding issues and predict progress for the next month. Reports will be delivered within the first week of the month following Notice to Proceed, and will continue monthly until submittal of Final PS&E. This task will be ongoing throughout the duration of the design.
- Subtask 2.3 – Project Schedule Control – MGE will maintain and update the Project Schedule and manage project schedule control throughout the design development process. This task will be ongoing throughout the duration of the design.
- Subtask 2.4 - Quality Control – Senior and Supervisory Staff will regularly meet and confer with design and sub-consultant staff to maintain concurrency with the project and project issues. All documentation prepared for the project will be reviewed and commented upon by Senior and Supervisory Staff prior to submittal. This task will be ongoing throughout the duration of the design.

**Task 3 – Right of Way Acquisition Support**

- Subtask 3.1 – Development of Draft Take Exhibit – Following the 65% submittal, MGE will prepare draft real estate exhibit(s) identifying limits of permanent Right-of-Way takes and limits of required temporary construction easements.
- Subtask 3.2 – Preparation of Final Take Exhibits – Following comments by the County, MGE will finalize Right-of-Way Take exhibits for use in acquisition by County Staff.
- Subtask 3.3 – Preparation of Take Description – MGE will prepare legal descriptions of takes and easements required to support right of way acquisition.

**Deliverables:** Draft and Final Right of Way Exhibits, Draft and Final Right of Way Legal Descriptions. The Final Exhibits and Legal Descriptions to be signed by a Professional Civil Engineer (Pre-1984 Registration).

#### **Task 4 – Construction Drawing Development**

- Subtask 4.1 – 65% Design & Drawings – MGE will prepare the design of the proposed improvements to repair the existing embankment and culvert per the concept developed by County Staff. A complete set of detailed plans will be prepared, including, as necessary, Title Sheet, Typical Cross Sections, Survey Control Plan, Layouts, Detour Layouts, Profiles, Grading and Drainage Plans, Drainage Profiles, Drainage Details, Pavement Delineation and Sign Plans, Construction Phasing Drawings, Erosion Control, and Construction Details.
- Subtask 4.2 – 95% Design & Drawings – Following receipt of comments and the 65% Design Review meeting, MGE will complete the design of the proposed improvements to repair the existing embankment and culvert per the concept developed by County Staff.
- Subtask 4.3 – Final Drawings – Following receipt of comments, MGE will complete the drawings “Ready to Advertise” (RTA) of the proposed improvements to repair the existing embankment and culvert per the concept developed by County Staff.

**Deliverables:** 65% Drawings (half size copy on bond & electronic files), Response to 65% Review Comments, 95% Plans (half size copy on bond & electronic files). Final Deliverables will include Response to 95% delivery, Ready To Advertise Plans (half size, full size and electronic files). The Final Drawings to be signed by a California Professional Civil or Structural Engineer.

#### **Task 5 – Technical Specifications**

- Subtask 5.1 – 65% Technical Specifications Outline – MGE will prepare the Contract Item List and outline of anticipated Technical Specifications for the proposed improvements.
- Subtask 5.2 – 95% Technical Specifications– MGE will prepare Draft Technical Specifications and submit with the 95% Drawings. Specifications will utilize Caltrans format and utilize the 2006 Standard Specifications with the latest Amendments and SSP Updates. Additional specialty specifications will highlight and define specific project earthwork requirements, bore and jack operations, and injection grouting operations.

**Deliverables:** 65% Technical Specifications Outline (hard copy and electronic file), 95% Technical Specifications (hard copy and electronic file). Final Deliverables will include Response to 95% comments, Ready To Advertise Specifications (hard copy and electronic file) and Advertisement Bid Item List. The Final Specifications to be signed by a California Professional Civil or Structural Engineer.

#### **Task 6 – Engineer’s Estimate of Construction Cost**

- Subtask 6.1 – 65% Engineer’s Estimate – MGE will prepare a summary of construction quantities and prepare an estimate of probable Construction Costs associated with the project improvements. Estimate format will include Caltrans Item Number, Units, Quantity, Cost and Totals. Backup data will also be provided for non-standard Items within the estimate.
- Subtask 6.2 – 95% Engineer’s Estimate – Based on County comments, MGE will update quantities, revise and complete the 95% estimate of probable Construction Costs associated with the project improvements.

9/8/2010

- Subtask 6.3 – Final Engineer’s Estimate – Based on County comments, MGE will update quantities, revise and complete a Final Estimate of probable Construction Costs associated with the project improvements.

**Deliverables:** 65% Quantities and Estimate (hard copy and electronic file), 95% Quantities and Estimate (hard copy and electronic file). Final Deliverables will include Response to 95% comments, Quantities and Final Estimate (hard copy and electronic file). The Final Estimate to be signed by a California Professional Engineer.

### **Geotechnical Engineering Report**

As part of the MGE Engineering, Inc. design team, Fugro West, Inc. of San Luis Obispo, CA will complete design-level geotechnical services for the project based on previous geotechnical data and the selected preferred repair scenario developed by MGE and Santa Barbara County Department of Public Works (County).

Design Services will be summarized in a Final Geotechnical Report containing slope stability results, and opinions and recommendations regarding the following:

- Slope Inclinations for the design and cut and embankment slopes;
- Grad and limits for a buttress fill to be constructed along the west edge of the reconstructed embankment based on slope stability analyses;
- Cuts and excavations including landslide removal, subdrain requirements, and excavation characteristics of on-site soil;
- Suitability of excavated materials for use as fill;
- Fill placement and compaction requirements for embankment construction;
- Erosion control and surface drainage considerations;
- Pavement structural section based on traffic indices provided;
- Pipe bedding and trench backfill material;
- Corrosion considerations for culverts and buried concrete structures (cement factors, pipe thickness, and need for coatings);
- Geotechnical considerations and “gassy” condition for the proposed jack and bore;
- Geotechnical consideration for fill void around the new pipe, abandoning the existing pipe, and filling voids within the existing embankment that may have formed as a result of erosion and sink holes around the existing pipe;
- Suggested material specifications for materials recommended in the Report;;
- Construction considerations regarding excavation, landslides, need for shoring or dewatering, and use of on-site soils

**Deliverables:** Draft and Final Geotechnical Report of Recommendations. The Final Geotechnical Report to be signed by a California Professional Geotechnical Engineer.

## **Proposed Schedule**

**Assumed Notice to Proceed: By September 22, 2010**

**65% Submittal – 12/1/2010, assume 30-day comment period**

**95% Submittal – 1/17/2011, assume 14-day comment period**

**Final PS&E submittal – 2/7/2011, assume 7-day comment period**

**Anticipated Start of Construction: 5/1/2011**

## **Cost Proposal**

See Attachment B-1: Budget and Schedule of fees for MGE Engineering, Inc.

## EXHIBIT B

### PAYMENT ARRANGEMENTS

Periodic Compensation (with attached Schedule of Fees)

JALAMA ROAD MILE POST 4.4 STORM DAMAGE REPAIR PROJECT NO. 862258

COUNTY OF SANTA BARBARA AGREEMENT WITH MGE ENGINEERING, INC.  
FOR DETAILED ENGINEERING DESIGN  
AS DESCRIBED IN THE FOLLOWING PAGE OF THIS EXHIBIT

#### ATTACHMENT B-1 BUDGET AND SCHEDULE OF FEES

A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed ONE HUNDRED AND FIFTY ONE THOUSAND, AND SIX HUNDRED AND FOURTY EIGHT dollars ( **\$ 151,648**).

B. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY. Payment for services and/or reimbursement of costs shall be based upon the costs, expenses, overhead charges and hourly rates for personnel, as defined in **Attachment B-1** (Budget and Schedule of Fees). Invoices submitted for payment that are based upon **Attachment B-1** must contain sufficient detail to enable an audit of the charges and provide supporting documentation if so specified in **EXHIBIT A**.

C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed over the period specified. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and if found to be satisfactory and within the cost basis of **Attachment B-1** shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of presentation.

D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

**Attachment B-1 Budget and Schedule of fees for MGE Engineering, Inc.**

COMPANY: MGE Engineering, Inc.

Project Name: Jalama Road MP 4.4 Storm Damage Repair Project

Date: 07-Sep-10

CLIENT: Santa Barbara County

Work Scope: PS&E and Right of Way Support

**Labor**

Task/Subtask No.	Description	Classification	Project Mgr/Engr	Sup. Civil Engr.	Senior Engineer	Associate Engineer	Assistant Engineer	CADD Technician	Admin Assistant				Total Hours/Costs	Total Cost
<b>1.0</b>	<b>Field Review &amp; Kick-Off Meeting</b>													
1.1	Kick-Off Meeting	Hrs		16			16						32	\$5,200.00
1.2	Agency Meeting (1)	Hrs		16			16						32	\$5,200.00
1.3	Field Review (Following Agency Meeting)	Hrs		3			3						6	\$975.00
<b>2.0</b>	<b>Project Management</b>													
2.1	Technical Supervision	Hrs		24									24	\$4,800.00
2.2	Progress Reports	Hrs		12			6						18	\$3,150.00
2.3	Project Schedule Control	Hrs	12										12	\$2,640.00
2.4	Quality Control	Hrs	4	24	24								52	\$9,760.00
<b>3.0</b>	<b>Right of Way Acquisition Support</b>													
3.1	Develop Draft Take Exhibit	Hrs		2	4		12	8					26	\$3,540.00
3.2	Prepare Final Take Exhibit	Hrs	2		4		8	8					22	\$3,080.00
3.3	Prepare Final Take Description	Hrs			6								6	\$1,020.00
<b>4.0</b>	<b>Construction Drawing Development</b>													
4.1	65% Design and Drafting (29 Sheets)	Hrs	8	40	32	20	158	40					298	\$42,750.00
4.2	95% Design and Drafting (29 Sheets)	Hrs	4	16	8	8	68	16					120	\$17,060.00
4.3	Final Drawings	Hrs	2	8	4	4	28	4					50	\$7,300.00
<b>5.0</b>	<b>Technical Specifications</b>													
5.1	65% Technical Specifications Outline	Hrs		6									6	\$1,200.00
5.2	95% Technical Specifications	Hrs	6	24					4				34	\$6,428.00
5.3	Final Technical Specifications	Hrs	4	12					4				20	\$3,588.00
<b>6.0</b>	<b>Engineer's Estimate of Construction Cost</b>													
6.1	65% Engineer's Estimate	Hrs	1	6	4		8						19	\$3,100.00
6.2	95% Engineer's Estimate	Hrs	1	4	2		12						19	\$2,860.00
6.3	Final Engineer's Estimate	Hrs	1	1	2		4						8	\$1,260.00
<b>7.0</b>	<b>Bidding and Award Assistance</b>													
7.1	Bidding and Award Assistance	Hrs	1	2			2	2					7	\$1,110.00
														\$126,021.00
	<b>Total Hours by Employee</b>		<b>46</b>	<b>216</b>	<b>90</b>	<b>32</b>	<b>341</b>	<b>78</b>	<b>8</b>				<b>811</b>	
	Loaded Hourly Rate		\$220.00	\$200.00	\$170.00	\$150.00	\$125.00	\$120.00	\$77.00					
	Hourly Salary Rate		\$74.07	\$67.34	\$57.24	\$50.51	\$42.09	\$40.40	\$25.93					
	Direct Labor Cost		\$3,407.41	\$14,545.45	\$5,151.52	\$1,616.16	\$14,351.85	\$3,151.52	\$207.41				\$42,431.31	
	170% Overhead		\$5,792.59	\$24,727.27	\$8,757.58	\$2,747.47	\$24,398.15	\$5,357.58	\$352.59				\$72,133.23	
	10% Profit		\$920.00	\$3,927.27	\$1,390.91	\$436.36	\$3,875.00	\$850.91	\$56.00				\$11,456.45	
	Total Direct Labor Costs		\$10,120.00	\$43,200.00	\$15,300.00	\$4,800.00	\$42,625.00	\$9,360.00	\$616.00				\$126,021.00	
	<b>Total Labor Cost</b>													<b>\$126,021</b>

Travel	Type	Rate	Units	Cost
	Mileage	\$0.500	1696	\$848.00
	Breakfast	\$11.00	4	\$44.00
	Lunch	\$16.00	4	\$64.00
	Dinner	\$34.00	2	\$68.00
	Lodging	\$126.00	2	\$252.00
	Parking/Tolls			\$0.00
	Air Travel			\$0.00
	Surface Trans.			\$0.00
	<b>Total Travel</b>			<b>\$1,276.00</b>

Other Direct Costs	Description	Unit Cost	Unit	Cost
	Special Deliveries			\$331.00
	Reproduction			\$500.00
	<b>Total Other Direct Costs</b>			<b>\$831.00</b>

Total Cost	Description	Cost
	<b>Labor</b>	\$126,021.00
	<b>Travel</b>	\$1,276.00
	<b>Other Direct Costs</b>	\$831.00
	<b>Subconsultants:</b>	
	<b>Fargen</b>	\$3,100.00
	<b>Fugro</b>	\$19,300.00
	<b>5% Sub Mark-Up</b>	\$1,120.00
	<b>Total Cost</b>	<b>\$151,648.00</b>

## EXHIBIT C

### STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS for contracts REQUIRING professional liability insurance

#### INDEMNIFICATION

##### Indemnification pertaining to other than Professional Services:

CONTRACTOR shall defend, indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

##### Indemnification pertaining to Professional Services:

CONTRACTOR shall indemnify and save harmless the COUNTY, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of the negligent performance or attempted performance of the provisions hereof; including any willful or negligent act or omission to act on the part of the CONTRACTOR or his agents or employees or other independent contractors directly responsible to him to the fullest extent allowable by law.

CONTRACTOR shall notify the COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement.

#### INSURANCE

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverage is to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in

Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.

2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

*"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."*

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

3. Professional Liability Insurance. Professional liability insurance shall include coverage for the activities of CONTRACTOR's professional staff with a combined single limit of not less than \$1,000,000 per occurrence or claim and \$2,000,000 in the aggregate. Said policy or policies shall provide that COUNTY shall be given thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in coverage. If the policy providing professional liability coverage is a on 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three (3) years (ten years [10] for Construction Defect Claims) following completion of the performance or attempted performance of the provisions of this agreement.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.



In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.