

STANDARD AGREEMENT

STD. 213 (NEW 02/98)



AGREEMENT NUMBER HSR06-00001	AMENDMENT NUMBER
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1. This Agreement is entered into between the State Agency and the Contractor named below
- STATE AGENCY'S NAME
California High-Speed Rail Authority
- CONTRACTOR'S NAME
Parsons Brinckerhoff Quade and Douglas
2. The term of this Agreement is: November 16, 2006 through June 30, 2013
3. The maximum amount of this Agreement is: \$ 199,000,000.00
One-hundred ninety-nine million dollars
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A – Scope of Work and Deliverables	3	Page(s)
Exhibit B – Budget Detail and Payment Provision	3	Page(s)
* Exhibit C – General Terms and Conditions	GTC 306	1
Exhibit D – Special Terms and Conditions	7	Page(s)
Exhibit E – Prevailing Wages Requirements Additional	2	Page(s)
Attachment 1 – RFQ HSR06-0001/RFP HSR06-0001	30	Pages
Attachment 2 – Proposal/Scope of Work/ Deliverables	175	Pages
Attachment 3 – Cost Proposal	46	Pages
Attachment 4 - Labor Code sections	8	Pages

*View at www.dgs.ca.gov/contracts

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR	CALIFORNIA Authority of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)	
Parsons Brinckerhoff Quade and Douglas	
BY (Authorized Signature) 	DATE SIGNED 11-16-06
PRINTED NAME AND TITLE OF PERSON SIGNING	
Anthony Daniels, Senior Vice President	
ADDRESS	
303 Second Street, Suite 700N San Francisco, CA 94107-1317	
STATE OF CALIFORNIA	
AGENCY NAME	
California High-Speed Rail Authority	
BY (Authorized Signature) 	DATE SIGNED 11-16-06
PRINTED NAME AND TITLE OF PERSON SIGNING	
Mehdi Morshed, Executive Director	
ADDRESS	
925 L Street, Suite 1425 Sacramento, CA 95814	
<input checked="" type="checkbox"/> Exempt per <u>PCC 10430</u>	

**EXHIBIT A
SCOPE OF WORK AND DELIVERABLES**

1. The Consultant will be performing "Program Management Services" under this agreement as generally described in Attachment 2 (consisting of the Technical Proposal/Scope of Work/Deliverables) which is made a part hereof, and as made more specific by the Annual Work Programs that are to be prepared by the Consultant, subject to refinement in consultation with Authority staff, and are to be effective upon acceptance by the Authority's Executive Director. The primary activities of the "Program Management Services" consist of engineering services, environmental services and construction management services. Incidental services to the "Program Management Services" includes public outreach, visual simulation, and right-of-way assessment.
2. The services shall be performed on a statewide basis; however the Consultant will establish an office in Sacramento.
3. All inquiries during the term of this Agreement will be directed to the project representatives identified below:

THE AUTHORITY	THE CONSULTANT
Contract Manager (Executive Director) Mehdi Morshed	Project Director: Anthony Daniels
Address: 925 L Street, Suite 1425 Sacramento, CA. 95814	Address: 303 Second Street, Suite 700N San Francisco, CA 94107-1317
Phone: (916) 324-1541	Phone: 415-243-4634
Fax: (916) 322-0827	Fax: 415-495-6732

STATEMENT OF WORK

The work on this contract will be done in phases. The Phase I of this work is estimated to take 6-years to complete. The Consultant will prepare an Annual Work Program (AWP) which will consist of a detailed scope of work (defining deliverables and due dates), a detailed staffing plan, and cost estimate.

Phase I - PE for completion of EIR/EIS, Implementation Plan. During this phase, the Consultant will be accountable for:

- Establishment of a Project Office
- Development of a project implementation strategy and master plan
- Launch and management of the project level environmental work through a series of GEC consultants
- Development of a Right of Way assessment and acquisition program
- Development of a methodology for the performance and management of subsurface structural/geotechnical investigation

The CONSULTANT will establish those systems necessary to maintain control of the schedule, budget, documentation, procurement, construction contracting strategies, etc. so that project delivery tracks the established schedule and financial targets.

Program Management Responsibilities

- A. Project Management Plan (PMP) Develop a PMP in accordance with generally accepted industry practice
- B. Prepare and maintain: 1) a master project schedule, 2) project estimate, and 3) financial and technical information system using contemporary software applications and MIS technology to facilitate controlled access by all project participants for obtaining and updating information. All project information is to be integrated through the use of a master Work Breakdown Structure (WBS). The WBS will facilitate the periodic summarization of detailed cost and schedule information.

EXHIBIT A
SCOPE OF WORK AND DELIVERABLES

- C. Project Management and Control System (PMCS) - Implement a PMCS that enables the integrated monitoring and control of the entire project in terms of financial management, scheduling, document control and other status reporting functions. While the focus initially is Phase I, the PMCS should be chosen to accommodate expansion for use throughout the entire program.
- D. Risk Management Plan (RMP) - Develop program and management plan which identifies the potential risks which could threaten the timely and cost effective completion of the project. Risks to be identified should include but are not limited to technical, financial, institutional, and legal risks, and the RMP shall address those risks identified as appropriate by the Authority's Executive Director. The RMP will include risk identification, risk assessment, risk allocation, and recommended risk management strategies. The plan will be updated on a periodic basis.
- E. Project Insurance - Develop and recommend project insurance strategy through the evaluation of available alternatives and the review of successful approaches deployed elsewhere. When the need arises, prepare RFP for the solicitation of wrap-up insurance and manage the contract.
- F. Quality Management - Establish and implement a QA and QC plan for the work of the CONSULTANT and a master plan for the project
- G. Public Education, Participation and Outreach - Assist and implement a public education, participation and outreach plan for a diverse stakeholder group throughout the project area.
- H. Design Standards and Coordination - Establish master standards for the project and establish procedures and systems to assure compliance and coordination.
- I. Project-Level Preliminary Engineering/ EIR/EIS Management - provide oversight and coordination of the project-level preliminary engineering and EIR/EIS for all the regions.
- J. Procurement and Contract Administration - Provide services to procure other services, equipment and construction for the total project implementation.
- K. Special Design Work - The majority of the preliminary design work will be accomplished through the regional environmental/engineering contracts however the CONSULTANT maybe required to perform additional design work or full design on specific elements. Unit costs for systems elements (signaling, communications, and electrification) and HST vehicles will be developed by the CONSULTANT as well as engineering design criteria, operational analysis and costs.

Phase II – Design and Pre-Construction. During Phase II the Consultant will manage civil design, systems design (including trainsets), systems integration and any value engineering effort deemed appropriate. The performance measurement is a high-quality design which is delivered on time and within budget, that is constructible, biddable in accordance with the contracting strategy, and fully compliant with the Authority's service operating plan. Throughout this phase the Consultant continues to be responsible for maintaining schedule and cost control along with the quality and risk management. All systems prepared and launched during Phase I must be maintained. All required actions to prepare for timely construction and material acquisition must be undertaken as well.

Phase III – Construction and Preparation for Operations – During Phase III the Consultant is responsible for the management of all construction contracts unless specifically excluded by the Authority and assigned to another entity or themselves. This does not relieve the Consultant of overall integration of the systems through the chosen contracting methodology. The CONSULTANT will engage the services of one or more construction managers (CM's) to carry out the management task. The Consultant will also manage the GEC (civil and system designers) construction support activities. The Consultant continues to be responsible for maintaining schedule and cost control along with the quality and risk management. All systems prepared and launched during Phase I and used during Phase II must be maintained. A claims avoidance, defense and mitigation strategy is to be developed and proactively

EXHIBIT A
SCOPE OF WORK AND DELIVERABLES

managed. During this phase the Consultant will also be responsible for recommending a rail operations contracting strategy and in close cooperation with the Authority, will assist in the implementation of such a contract in order to allow the successful contractor to be a part of Phase IV - Testing and Commissioning Phase. The Consultant will insure that the contractors and the selected operator are working in an integrated manner to facilitate a smooth transition from construction and installation of systems to the commissioning phase. Testing and commissioning plans will be reviewed for schedule conformance and compliance with all systems integration, quality and risk management plans.

Phase IV – System Testing and Commissioning. During Phase IV the Consultant will actively manage all contractors directly or through assigned CM's to see that all systems and facilities are tested in accordance with approved plans, that any deficiencies are promptly addressed and corrected so that the operator is presented with a safe operating system that can deliver the performance established in the business plan. The Consultant must also see to it that all training documentation is delivered, as-builts are prepared and delivered, and training is accomplished according to plan.

CONSULTANT REPORTS AND/OR MEETINGS

- A. The Consultant shall submit progress reports at least once a month to the Executive Director and the Authority's Program Management Oversight contractor. The report should be sufficiently detailed for the Executive Director to determine if the Consultant is performing to expectations and is on schedule, to provide communication of interim findings and to afford occasions for airing difficulties or special problems encountered so remedies can be developed.
- B. A schedule for the submittal of reports, and report content, for the initial phase of work will be developed within the first 30-days of the contract.
- C. Progress reports shall identify the total number of hours worked by the Consultants' and Subconsultants' personnel by use of the Work Breakdown Structure (WBS) level element(s).
- D. The Consultant's Project Director shall meet with the Authority's Executive Director as needed to discuss progress on the Agreement.

**EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS**

FUNDING REQUIREMENTS

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Consultant or to furnish any other considerations under this Agreement and Consultant shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State or Consultant, or offer an agreement amendment to the Consultant to reflect the reduced amount.

COMPENSATION AND PAYMENT

- A. The 2006/07 budget allocation for the Initial Phase of work will not exceed \$3,093,066. In the subsequent years the Consultant will prepare an Annual Work Program (AWP) and budget for review, negotiation, and approval by the Executive Director. The due date and content of the AWP will be determined during initial 30-days of the contract.
- B. For the initial phase of work the Consultant will be reimbursed for hours worked at a rate not to exceed the hourly rates specified in the Consultant's Initial Phase of work Cost Proposal (see Attachment 3). The specified hourly rates shall include direct salary costs, employee benefits, and overhead. The hourly rates for future phases of work will be agreed upon during the Annual Work Program negotiations and may include escalation rates.
- C. In addition, the Consultant will be reimbursed for direct costs, other than salary costs, that are identified in the Consultant's Initial Phase of work Cost Proposal (see Attachment 3). Other Direct costs for future phases of work will be agreed upon during the Annual Work Program negotiations.
- D. Transportation and subsistence costs identified in the Initial Phase of work cost proposal (See Attachment 3) shall be reimbursed at the actual costs incurred, but not to exceed the rates stipulated by the Department of Personnel Services. Transportation and subsistence costs for future phases of work will be agreed upon during the Annual Work Program negotiations, these cost shall be reimbursed at the actual costs incurred, but not to exceed the rates stipulated by the Department of Personnel Services
- E. The Consultant will receive a 10% fee during the 2006/2007 fiscal year (the fee is based on 10% of direct labor and overhead excluding facilities cost of capital). During the subsequent years the fee will be negotiated annually during the Annual Work Program negotiations.
- F. The Consultant will receive a 3% fee on Subconsultants costs with the exception of Systra, which the Consultant will not receive a fee.
- G. Progress payments:
 - 1. Progress payments will be made monthly in arrears based on services provided at specific hourly rates and allowable direct costs incurred.
 - 2. To determine allowable incurred Subconsultant costs that are eligible for reimbursement, in addition to reimbursement for actual costs that are incurred, the Authority will allow Subconsultant costs that are treated by the Consultant as accrued due to such costs having

**EXHIBIT B
BUDGET DETAIL AND PAYMENT PROVISIONS**

been billed to the Consultant and recognized by the Consultant and the Authority as valid, undisputed, due and payable.

3. By submitting accrued but unpaid Subconsultant costs for reimbursement, the Consultant agrees that within ten (10) days of receipt of reimbursement, the full amount submitted as a reimbursable accrued Subconsultant cost shall be paid to the Subconsultant.

- H. No payment will be made for any work performed prior to approval of this Agreement by the State and written notification to proceed has been issued by the Executive Director, nor will any payment be made for work performed after the performance period of this Agreement. Invoices shall reference this Agreement number and project title. Invoices shall be submitted no later than 45 calendar days after completion of each billing period. Any credits due the Authority must be reimbursed by the Consultant prior to the expiration or termination of this Agreement. Invoices shall be mailed to the Authority's Executive Director at the following address:

California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

- I. The Consultant will be reimbursed in arrears for services satisfactorily rendered, within 30-days of receipt by the Authority's Executive Director of itemized invoices in triplicate.

- J. Invoices shall be submitted showing the Work Breakdown Structure (WBS) level element for each billable hour increment and/or detail of work performed on each milestone, on each project as applicable.

- L. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

- M. The total amount payable by the Authority, for work resulting from this Agreement, shall not exceed \$199,000,000.00. It is understood and agreed that this total is an estimate, and that the actual amount of work requested by the Authority may be less. There is no guarantee, either expressed or implied, as to the actual dollar amount that will be authorized under this Agreement.

- N. Any subagreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the applicable provisions of this Compensation and Payment clause.

COST PRINCIPLES

- A. The consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the allowability of individual items of cost.

- B. The Consultant also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, Uniform Administration Requirements for Grants and Cooperative Agreements to State and Local Governments.

- C. Any costs for which payment had been made to the Consultant that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq. or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by the Consultant to the Authority.

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BUDGET DETAIL AND PAYMENT PROVISIONS

- D. Any subagreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all the provisions of this Cost Principles clause.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

PLEASE NOTE: In this Exhibit C – GTC 306, the General Terms and Conditions are included in this Agreement by reference and made part of this Agreement as if attached hereto. See <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

The following language is to be included in lieu of the Standard Indemnification Clauses used in DGS GTC – 306 General Terms and Conditions.

Indemnification

The Consultant agrees to indemnify and hold harmless the Authority, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to or claimed to be due to negligent or intentional acts, errors, or omissions of the Consultant. The Consultant will reimburse the Authority for any expenditure, including reasonable attorney fees, incurred by the Authority in defending against claims ultimately determined to be due to negligent or intentional acts, errors, or omissions of the Consultant.

The total liability of the Consultant pursuant to this provision shall not exceed \$199,000,000.00.

This provision will be reviewed by both parties at the end of the Initial Phase of work.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

ORDER OF PRECEDENCE

The Work to be performed under this contract shall be in accordance with the Request for Qualifications (RFQ) dated August 23, 2006, the Request for Proposal (RFP) dated September 13, 2006 and the Contractor's technical proposal entitled "Technical Proposal for Program Management Services", dated October 2, 2006. The RFQ and RFP are attached hereto as Attachment 1, and the Contractor's response to the RFP is attached hereto as Attachment 2. In the event of any inconsistencies or ambiguities in this Contract the following documents shall be used to interpret the Contract in the order of precedence stated:

1. Terms of this Contract, and approved Annual Work Programs.
2. RFQ HSR06-0001 dated August 23, 2006 and RFP HSR06-0001 dated September 13, 2006.
3. Contractor's response to RFP dated October 2, 2006.

AMENDMENT (CHANGE IN TERMS)

- A. No amendment or variation of the terms of this agreement shall be valid unless made in writing, signed by the parties, and approved by the Executive Director. No oral understanding or agreement not incorporated in agreement is binding on any of the parties.
- B. The Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the Authority's Executive Director.
- C. There shall be no change in the Consultant's Project Director or members of the project team, as listed in the technical and cost proposals (as identified in Attachment 2), which is a part of this Agreement, without prior written approval by the Authority's Executive Director. If the Consultant obtains approval from the Authority's Executive Director to add or substitute personnel, the Consultant must provide the Personnel Request Form, a copy of the resume for the additional or substituted personnel, along with a copy of the certified payroll for that person.

DISPUTES

- A. The Consultant shall continue with the responsibilities under this Agreement during any work dispute. Any dispute, other than a dispute arising from an audit pursuant to this document, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Executive Director.
- B. In the event of a dispute, the Contractor shall file a "Notice of Dispute" with the California High-Speed Rail Authority, and the Executive Director within ten (10) days of discovery of the problem. Within ten (10) days, the Executive Director shall meet with the Project Director for purposes of resolving the dispute. The decision of the Executive Director shall be final.

TERMINATION

This section regarding termination is in addition to GTC 306.

- A. The Authority has the right to terminate the Agreement for any reason for the Authority's convenience on 30-day written notice to the Consultant.
- B. The Authority reserves the right to terminate this Agreement immediately in the event of breach or failure of performance by the Consultant, or upon thirty (30) calendar days written notice to the Consultant if terminated for the convenience of the Authority.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

- C. The Authority may terminate this Agreement and be relieved of any payments except as provided for under early termination should the Consultant fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the Authority may proceed with the work in any manner deemed proper by the Authority. All costs to the Authority shall be deducted from any sum due the Consultant under this Agreement and the balance, if any, shall be paid to the Consultant upon demand.

EARLY TERMINATION OR SUSPENSION OF THIS AGREEMENT

General Conditions

- A. In the event this Agreement is terminated without cause or suspended the Consultant shall be paid for the cost of the work completed to date called for under this Agreement. No billable costs will be considered payable under the Agreement during suspension.
- B. The suspension of the contract shall not exceed ninety (90) days without any additional compensation. If the suspension exceeds beyond ninety (90) days either party may request to treat such a suspension as a termination or partial termination for convenience and proceed in accordance with applicable provisions of this Agreement.
- C. Within 30 days of the date the Consultant is notified of the early termination, the Consultant shall prepare and submit to the Executive Director, for approval, two (2) separate supplemental cost proposals:
- a. A final revised cost proposal for all project-related costs for the revised termination date, and
 - b. A cost proposal specifically addressing the termination settlement costs only.

SUBCONTRACTING

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subconsultants, and no subagreement shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the State 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 State'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 Authority's Executive Director, except that which is expressly identified in the Consultant's Cost Proposal.
- C. Any subagreement in excess of \$25,000, entered into as a result of this Agreement, shall contain all the applicable provisions stipulated in this Agreement.
- D. Contractor shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to the Consultant by the State.
- E. Any substitution of subconsultants must be approved in writing by the Authority's Executive Director in advance of assigning work to a substitute subconsultant.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

INSURANCE

- A. The Consultant shall furnish to the Authority Certificates of Insurance for the minimum coverage set forth below. The Consultant shall be fully responsible for all policy deductibles and any self-insured retention. The required insurance shall be provided by carriers authorized or approved to do business in California.
- B. Types and Amount of Coverage
1. Workers Compensation and Employers Liability Insurance in accordance with statutory requirements.
 2. General Liability insurance in an amount not less the \$10,000,000.00 per occurrence combined single limit for bodily injury and property damage.
 3. Automobile liability coverage of not less than \$1,000,000.00 per accident.
 4. A \$50,000,000.00 umbrella or excess liability shall include products liability completed operations coverage. The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.
 5. Professional Liability insurance in an amount not less than \$5,000,000.00 per claim and \$5,000,000.00 in the aggregate.
- C. The insurance above shall be maintained in effect at all times during the term of this Agreement. Failure to maintain the required coverage shall be sufficient grounds for the Authority to terminate this Agreement for cause, in addition to any other remedies the Authority may have available. Additionally, the Consultant shall maintain the Professional Liability insurance for a period of three (3) years after completion of its performance under this Agreement.
- D. The Certificates of Insurance shall provide:
- a. That the insurer will not cancel the insured's coverage without 30 days prior written notice to the Authority.
 - b. That the State of California, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this Agreement are concerned and only for the General Liability and Automobile Liability coverage required in Exhibit D, section XXI, paragraph B., items 2 and 5 above.
- E. The Authority will not be responsible for any premiums or assessments on the policy.

DAMAGES DUE TO ERRORS AND OMISSIONS

- A. The Consultant shall be responsible for the professional quality, technical accuracy, and coordination of all services required under this Agreement. A Consultant may be liable for Authority costs resulting from errors or deficiencies in designs furnished under its Agreement.
- B. When a modification to a construction contract is required because of an error or deficiency in the services provided under this A&E Agreement, the Executive Director (with the advice of technical personnel) shall consider the extent to which the-consultant may be reasonably liable.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

- C. Authority's Executive Director shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the Authority's interest. The Executive Director shall include in the Agreement file a written statement of the reasons for the decision to recover or not to recover the costs from the firm.

LICENSES AND PERMITS

- A. The Consultant shall be an individual or firm licensed to do business in California and shall obtain at its expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this Agreement.
- B. If you are a Consultant located within the state of California, a business license from the city/county in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Consultant outside the state of California, you will need to submit to the Authority a copy of your business license or incorporation papers for your respective state showing that your company is in good standing in that state, and proof of registration as a foreign corporation qualified to do business in California.
- C. In the event any license(s) and/or permit(s) expire at any time during the term of this Agreement, Consultant agrees to provide the Authority a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Consultant fails to keep in effect at all times all required license(s) and permit(s), the Authority may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

CONTINGENT FEE

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

OWNERSHIP OF DATA

- A. During the term of this agreement and upon completion any and all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this Agreement will automatically be vested in the Authority and no further agreement will be necessary to transfer ownership to the Authority. The Consultant shall furnish the Authority all necessary copies of data needed to complete the review and approval process.
- B. The Consultant is not liable for claims, liabilities or losses arising out of, or connected with, the modification or misuse by the Authority of the machine readable information and data provided by the Consultant under this agreement; further, the Consultant is not liable for claims, liabilities or losses arising out of, or connected with, any use by the Authority of the project documentation on other projects, for additions to this project, or for the completion of this project by others, excepting only such use as may be authorized, in writing, by the Consultant.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

- C. Any subagreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of the Ownership of Data clause.

CLAIMS FILED BY AUTHORITY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by the Authority's construction contractor relating to work performed by the Consultant's personnel and additional information or assistance from the Consultant's personnel is required in order to evaluate or defend against such claims, the Consultant agrees to make its personnel available for consultation with the Authority's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. The Consultant's personnel that the Authority considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from the Authority. Consultation or testimony will be reimbursed at the same rates, including travel costs, that are being paid for the Consultant's personnel services under this Agreement.
- C. Services of the Consultant's personnel in connection with the Authority's construction contract claims will be performed pursuant to a written supplement, if necessary, extending the termination date of this agreement in order to finally resolve the claims.
- D. Any subagreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of the Claims Filed by Authority's Construction Contractor clause.

CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to the Authority's operations, which is designated confidential by the Authority and made available to the Consultant in order to carry out this Agreement, shall be protected by the Consultant from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or public hearing held by the Authority relating to this Agreement shall not authorize the Consultant to further disclose such information or disseminate the same on any other occasion.
- C. The Consultant shall not comment publicly to the press or any other media regarding this Agreement or the Authority's actions on the same, except to the Authority's staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.
- D. The Consultant shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Authority and receipt of the Authority's written permission.
- E. All information related to any construction estimate is confidential and shall not be disclosed by the Consultant to any entity, other than the Authority.
- F. Any subagreement, entered into as a result of this Agreement, shall contain all of the provisions of the Confidentiality of Data clause.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

EVALUATION OF CONSULTANT

An evaluation of the Consultant's performance will be performed whenever the Authority deems it appropriate to do so. A copy of the evaluation will be sent to the Consultant for comment. The evaluation, together with the comments, shall be retained by the Authority.

STATEMENT OF COMPLIANCE

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 Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

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 the Authority. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

CONFLICT OF INTEREST

- A. During the term of this Agreement, the Consultant shall disclose any financial, business, or other relationship with Authority that may have an impact upon the outcome of this Agreement. The Consultant shall also list current clients and future clients when retained who may have a financial interest in the outcome of this Agreement or any ensuing construction project which will follow and supply such information to the Authority in the monthly progress report.
- B. 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.
- C. The Consultant hereby certifies that neither the Consultant, Subconsultant nor any firm affiliated with the Consultant or Subconsultant will bid on any construction contract project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

**EXHIBIT D
SPECIAL TERMS AND CONDITIONS**

- D. The Contractor and its employees, and all its subcontractors and employees, shall comply with the Authority's Conflict of Interest Code.
- E. Any subagreement in excess of \$25,000.00, entered into as a result of this Agreement, shall contain all of the provisions of this Conflict of Interest clause.

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 Authority agency employee. For breach or violation of this warranty, the Authority 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 STATE FUNDS FOR LOBBYING

- A. The Consultant certifies, to the best of his or her knowledge and belief, that:
 - 1. No State 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 State 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 of any State agreement, the making of any State, the making of any State loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State agreement, grant, loan, or cooperative agreement.

**EXHIBIT E
ADDITIONAL PROVISIONS**

STATE PREVAILING WAGES RATES

The work called for in this contract may involve, in whole or in part, a "public work," as that term is defined in Labor Code sections 1720 et seq., and one or more employees of the contractor or of one or more of the contractor's subcontractors may perform work to which federal and state prevailing wage laws, laws concerning apprentices, and other pertinent laws may apply. It is the obligation of the contractor to determine whether these laws apply to any of the work to be done pursuant to this contract.

To the extent that any of the work done pursuant to this contract, including work done pursuant to any subcontracts, falls within the definition of "public work" as set forth in Labor Code sections 1720 et seq., and involves "workers," as that term is defined in Labor Code section 1723, the following provisions apply.

1. The contractor shall comply with all obligations imposed on contractors by Labor Code section 1776. Any subcontracts will contain a provision requiring subcontractors to comply with all obligations imposed on subcontractors by Labor Code section 1776.
2. The contractor agrees to comply with the provisions of Labor Code section 1775, as it exists now and as it may be amended from time to time during the duration of this Agreement.
3. Copies of Labor Code sections 1771, 1775, 1776, 1777.5, 1813, and 1815 are attached hereto as Attachment 4. To the extent these sections describe the obligations of a contractor or subcontractor engaged in a public work, those obligations are made a part of this Agreement as though fully set forth. Any contract executed between the contractor and a subcontractor shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815, and shall provide that the subcontractor shall comply with the provisions of those sections.
4. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article.
5. In accordance with the provisions of Section 3700 of the Labor Code, the contractor will be required to secure the payment of compensation to his employees.
6. To the extent the contractor or any subcontractor employs apprentices or employs workers in any apprenticeable craft or trade, it shall be the responsibility of the contractor to see to it that the contractor and the subcontractors comply with Labor Code section 1777.5, as it now exists and as it may be amended from time to time during the duration of this agreement.

FEDERAL PREVAILING WAGES

The work herein proposed may be financed in whole or in part with Federal funds. To the extent it is so financed, all of the statutes, rules, and regulations promulgated by the Federal government which are applicable to work financed in whole or in part with Federal funds will be applicable to work performed pursuant to this contract. To the extent the work is financed in whole or in part with Federal funds, the following provisions will take effect:

A. Federal Requirements

1. Federal Requirements for Federal-Aid Construction Projects provisions may apply to this Agreement and, to the extent they apply, are made a part of the Agreement.

**EXHIBIT E
ADDITIONAL PROVISIONS**

2. The current Federal Prevailing Wage Determinations issued under the Davis-Bacon and related Acts shall apply to this Agreement and are made a part of the Agreement.

B. When prevailing wage rates apply, the Consultant must submit, with each invoice, a certified copy of the payroll for compliance verification. Invoice payment will not be made until the payroll has been verified and the invoice approved by the Executive Director.

1. If there is any conflict between the State prevailing wages and the Federal prevailing wages, the higher rate shall be paid.

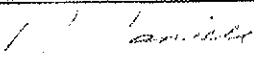
2. Any subagreement entered into as result of this Agreement shall contain all of the provisions of this clause.

In the event Federal funds are used to finance, in whole or in part, the work done pursuant to this Agreement, or any subcontracts, the parties agree to amend this Agreement to include any provisions to the extent such provisions are required to be included in the Agreement by Federal laws or regulations.

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CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i> Parsons Brinckerhoff Quade & Douglas, Inc.		<i>Federal ID Number</i> 11-1531569
<i>By (Authorized Signature)</i> 		
<i>Printed Name and Title of Person Signing</i> Anthony Daniels, Senior Vice President		
<i>Date Executed</i> October 30, 2006	<i>Executed in the County of</i> San Francisco, California	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the

certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations,

or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts executed or amended after July 1, 2004, the contractor may elect to offer domestic partner benefits to the contractor's employees in accordance with Public Contract Code section 10295.3. However, the contractor cannot require an employee to cover the costs of providing any benefits which have otherwise been provided to all employees regardless of marital or domestic partner status.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

I. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD (GRM STD. 204): This form must be completed by all contractors that are not another state agency or other governmental entity.