

AGREEMENT

I. PARTIES

This Agreement is entered into among the UNITED STATES OF AMERICA, acting through the United States Attorney's Office for the District of Massachusetts and the Department of Justice; the COMMONWEALTH OF MASSACHUSETTS, acting through the Attorney General for the Commonwealth of Massachusetts (the "Commonwealth of Massachusetts"), the MASSACHUSETTS HIGHWAY DEPARTMENT ("MHD"), the MASSACHUSETTS EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS ("EOT"), the MASSACHUSETTS TURNPIKE AUTHORITY ("MTA") (hereinafter collectively the "State Parties") (the United States and the State Parties are hereinafter referred to as "the Government"); BECHTEL INFRASTRUCTURE CORP. ("Bechtel"), a Nevada corporation with its principal place of business in Frederick, Maryland, PB AMERICAS INC., F/K/A/ PARSONS BRINCKERHOFF QUADE AND DOUGLAS, INC. ("PB"), a New York corporation with its principal place of business in New York, New York, and BECHTEL PARSONS BRINCKERHOFF, a joint venture of Bechtel and PB ("B/PB" or the "Joint Venture"), with its principal place of business in Boston, Massachusetts, through their authorized representatives ("Defendants"); and the Relator as defined in paragraph G of the Preamble to this Agreement. Collectively, all of the defendants shall be referred to as "the Joint Venturers." Collectively, the Government and the Joint Venturers shall be referred to as "the Parties."

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. The Central Artery/Tunnel Project ("the CA/T Project," "the Project," or "the Big Dig") is a major public transportation infrastructure project built through the heart of downtown Boston, Massachusetts. The CA/T Project was planned, designed, and constructed over a period of over twenty years from 1985 to the present.

B. From 1985 through December 31, 2005, the Joint Venturers served as Management Consultant on the CA/T Project and were responsible for managing the design and construction of, and for performing construction management and "Quality Assurance" functions on, the Project. The Joint Venturers did not prepare the final design or perform the construction work on the CA/T Project, but as Management Consultant, the Joint Venturers were bound by certain professional standards and contractual obligations.

C. The United States has notified the Joint Venturers that it contends there is evidence that the Joint Venturers, acting through employees and agents of Bechtel and PB, have violated Federal criminal statutes. Specifically, the United States contends it could charge the Joint Venturers with violations of 18 U.S.C. § 287 (submission of false claims for payment) and 18 U.S.C. § 1020 (federal highway fraud).

D. The United States also contends that it has claims under the federal False Claims Act, 31 U.S.C. § 3729-3733, and other common law claims, against the Joint Venturers for failing to provide adequate construction management services on (1) the construction of the Soldier Pile Tremie Concrete Slurry Wall panels in the I-93 tunnel from 1996 to 2004, (2) the installation and monitoring of the epoxy ceiling bolts in the suspended ceiling of the I-90 Connector tunnel from 1999 to 2004, (3) failure to adequately monitor the claims for payment by contractors on time and material contract modifications from 2000 to 2006, and (4) failure to provide sufficient oversight to prevent out-of-specification concrete from being delivered to the CA/T tunnels by Aggregate Industries Northeast Region, Inc. and/or its affiliates or subsidiaries. Specifically, the United States asserts that the services provided by the Joint Venturers were deficient because:

- (1) with respect to the Quality Assurance services relating to the slurry walls,
 - (a) the Joint Venturers allowed the construction contractor to place concrete for the slurry walls when construction specifications were not being met, and the Joint Venturers failed to complete the required documentation noting the deficiencies and failed to have the deficiencies corrected, and

- (b) the Joint Venturers had knowledge of significant defects in the slurry walls and allowed those defects to go unrepaired or to be inadequately repaired, even after the I-93 tunnel was open to traffic and the Joint Venturers had certified the tunnel's safety and proper construction;
- (2) with respect to the Quality Assurance services relating to epoxy ceiling bolts in the suspended ceiling in the I-90 Connector tunnel, the Joint Venturers observed epoxy bolts that were failing to withstand the load of the ceiling panels and were creeping out of the roof, but failed to adequately investigate the cause of such failures or to correct the problem;
- (3) with respect to the construction management services relating to contract modifications, the Joint Venturers failed to compare their records with the contractors' records on time and material slips thereby resulting in payments to be made to contractors who misrepresented the classification of apprentice workers; and
- (4) with respect to the failure to provide sufficient oversight to prevent out-of-specification concrete from being delivered to the CA/T tunnels by Aggregate Industries Northeast Region, Inc. or its affiliates or subsidiaries, the Joint Venturers failed to institute concrete testing protocols at the construction site as well as in the materials lab to determine that all concrete delivered to the Project met CA/T specifications and was placed pursuant to CA/T procedures.

Despite all of the failures noted above, the Joint Venturers submitted claims for payment for these services. The contentions stated in this paragraph D of this section are hereinafter referred to as the "Federal Covered Conduct."

E. The Commonwealth of Massachusetts has notified the Joint Venturers that it contends there is evidence that the Joint Venturers, acting through employees and agents of Bechtel and PB, have violated Massachusetts laws. Specifically, the Commonwealth of Massachusetts has asserted that the Commonwealth of Massachusetts could charge the Joint Venturers with conduct in violation of M.G.L. c. 265 § 13 (manslaughter), M.G.L. c. 266, § 67A (procurement fraud) and M.G.L. c. 12, § 5A et seq. (State Civil False Claims) with respect to the July 10, 2006 incident in which concrete ceiling panels and associated components over the eastbound lanes on the I-90 Connector Tunnel fell onto the roadway and crushed a traveling vehicle, resulting in the death of the passenger and injury to the driver (the "Event").

F. For purposes of this Agreement, the term "State Covered Conduct" shall mean the Joint Venturers': (1) failure to provide adequate services with respect to CA/T

suspended tunnel ceiling anchor systems in the I-90 Connector Tunnel; (2) conduct relating to the Event that could be chargeable as false claims under M.G.L. c. 12, § 5A et seq., manslaughter under M.G.L. c. 265 § 13, and procurement fraud under M.G.L. c. 266, § 67A; (3) failure to provide adequate services resulting in tunnel leaks in the I-93 Soldier Pile Tremie Concrete Slurry Wall panels; (4) conduct that could constitute false claims under M.G.L. c. 12, § 5A et. seq. for the deficient construction of I-93 Soldier Pile Tremie Concrete Slurry Wall panels: MW-85a, W-20, EO-45, W-31, E-14, E-15, E-6, M-69b, MW-87, MW-88, M-1, M-2, and M-16 under CA/T Contract No. C17A1; (5) failure to institute concrete testing protocols at the construction site as well as in the materials lab to determine that all concrete delivered to the CA/T tunnels by Aggregate Industries Northeast Region, Inc. and/or its affiliates or subsidiaries met CA/T specifications and was placed pursuant to CA/T procedures; and (6) failure to disclose financial information as alleged in the civil lawsuit of Commonwealth of Massachusetts, et al. v. Bechtel Corporation, et al., Civil Action No. 04-1151 (Massachusetts Superior Court, Suffolk Division).

G. On or about August 9, 2006, Relator Daniel E. Johnston (“Relator”) filed a qui tam action in the United States District Court for the District of Massachusetts captioned United States and Commonwealth of Massachusetts ex rel. Johnston v. Aggregate Industries PLC et al., Civil Action No. 06-11379-GAO (D. Mass.) (hereinafter referred to as the “Qui Tam Action”).

H. The Joint Venturers contend that they have at no time engaged in any criminal conduct, knowingly made false claims or statements, or otherwise engaged in fraudulent conduct. Nevertheless, without accepting the Government's view, the Joint Venturers accept responsibility for the conduct of their employees and agents as described in Exhibit A. The Joint Venturers agree that Exhibit A is accurate in all material respects and agree that they are foreclosed from contradicting Exhibit A. The Joint Venturers are free to defend themselves in third party

litigation related to the CA/T Project, are free to respond to inaccurate public criticisms, whether anonymous or sourced, and are able to comment and otherwise rely on statements made by governmental entities, including but not limited to the National Transportation Safety Board (NTSB), the MTA, the MHD, the FHWA, and other governmental entities—provided, however, that, in so defending themselves, the Joint Venturers' statements and filings shall not materially contradict Exhibit A.

I. The Government has determined that entry into this Agreement, as opposed to the institution of formal proceedings and/or litigation based upon the Federal Covered Conduct; based upon the State Covered Conduct and for the specific items listed in Exhibits B and C, is in the public interest. Similarly, the Joint Venturers, without admitting liability, have determined that entry into this Agreement, as opposed to the defense of formal proceedings and/or litigation based upon the Federal Covered Conduct; based upon the State Covered Conduct and for the specific items listed in Exhibits B and C, is appropriate under the circumstances. The Parties have reached a full and final resolution of the claims based upon the Federal Covered Conduct; of the claims based upon the State Covered Conduct and of claims for the specific items listed in Exhibits B and C, which final resolution includes total aggregate payments to the Government of \$450,230,500, plus accrued interest, as described below.

TERMS AND CONDITIONS

1. The Joint Venturers agree to pay to the United States and the Commonwealth of Massachusetts a combined sum of \$399,230,500 plus interest at the rate of 5% per annum from October 10, 2007 forward and continuing until and including the day before each Joint Venturer's respective complete payment is made. Bechtel shall contribute \$352,000,000 (the "Bechtel Payment Amount"); and PB shall contribute \$ 47,230,500 (the "PB Payment Amount"),¹ plus applicable accrued interest, and according to paragraphs 2

¹ The PB Payment Amount of \$47,230,500 consists of a cash payment to the Government of \$46,530,500

through 7 below. Each of these sums shall constitute debts of the respective parties that are immediately due and owing to the United States and the Commonwealth of Massachusetts on the satisfaction of the conditions of payment set forth in this Agreement. These debts are to be discharged by payments to the United States and the Commonwealth of Massachusetts under the terms and conditions appearing below. Bechtel and PB are each separately responsible to the Government only for the respective sum, and the interest thereon, that each party owes under the Agreement.

2. Of the Bechtel Payment Amount, Bechtel shall pay to the United States the sum of \$20,487,297, plus applicable accrued interest (the "Bechtel Federal Payment Amount"). The Bechtel Federal Payment Amount shall be paid by electronic funds transfer no later than ten (10) business days following the date this Agreement is fully executed by the Parties.

3. Of the Bechtel Payment Amount, Bechtel shall deliver to the Commonwealth of Massachusetts the sum of \$35,852,769, plus applicable accrued interest (the "Bechtel State Payment Amount"). The Bechtel State Payment Amount shall be paid by electronic funds transfer no later than ten (10) business days following the date this Agreement is fully executed by the Parties.²

4. Of the PB Payment Amount, PB shall pay to the United States the sum of \$2,748,935, plus applicable accrued interest (the "PB Federal Payment Amount"). The PB Federal Payment Amount shall be paid by electronic funds transfer no later than ten (10) business days following the date this Agreement is fully executed by the Parties.

and a credit to the CA/T Project of \$700,000.

² Of the Bechtel State Payment Amount, \$1,750,000 is in settlement of the City of Boston's claims arising out of the Event and \$142,000 is in settlement of the Massachusetts Bay Transit Authority's ("MBTA") claims arising out of the Event. It is anticipated that, prior to the execution of this Agreement, the City of Boston and the MBTA will execute the separate releases and agreements attached as Exhibits D and E to this Agreement; the Commonwealth of Massachusetts will hold these releases in escrow until payment is made by Bechtel and PB pursuant to paragraphs 2, 3, 4, 6 and 7.a. of this Agreement. Within twenty (20) business days of receipt of the Bechtel State Payment Amount, the Commonwealth of Massachusetts shall transfer those amounts directly to the City of Boston and the MBTA respectively pursuant to Exhibits D and E to this Agreement.

5. Of the PB Payment Amount, PB shall deliver to the Commonwealth of Massachusetts the sum of \$4,810,637, plus applicable accrued interest (the "PB State Payment Amount"). The PB State Payment Amount shall be paid by electronic funds transfer no later than one year following the date of the first payment in paragraph 7.a. hereunder.

6. Of the Bechtel Payment Amount, Bechtel shall deliver to the Commonwealth of Massachusetts the amount of \$295,659,934, plus applicable accrued interest (the "Bechtel Fund Amount"). The Bechtel Fund Amount shall be paid by electronic funds transfer no later than ten (10) business days following the date this Agreement is fully executed by the Parties.

7. Of the PB Payment Amount, PB shall deliver to the Commonwealth of Massachusetts the amount of \$39,670,928, plus applicable accrued interest (the "PB Fund Amount"). The PB Fund Amount shall be made in three (3) annual payments as described below. The first payment of the PB Fund Amount shall be paid by electronic funds transfer no later than ten (10) business days following the date this Agreement is fully executed by the Parties. The payments comprising the PB Fund Amount shall be as follows:

- a. First Payment: \$15,287,400, plus interest;
- b. Second Payment: \$8,583,528, plus interest (one year from First Payment);
and
- c. Third Payment: \$15,100,000, plus interest (two years from First Payment).

The time period between the First Payment and up to and including the Third Payment is hereby referred to as the "PB Payment Period." PB is permitted to make these payments sooner than specified in the above schedule. If PB makes a payment sooner than specified in the above schedule, PB will be charged interest only up until the time payment is received.

8. Contingent upon the United States receiving the Bechtel Federal Payment Amount and the PB Federal Payment Amount and as soon as feasible after receipt, the United States agrees to pay \$54,000 to Relator by electronic funds transfer. It is expressly

understood and agreed that the United States in no way promises, guarantees, nor is liable to the Relator for the collection or payment of any funds pursuant to this Agreement or the payment of the Relator's share as provided herein for funds not actually collected and received by the United States.

9. Contingent upon the Commonwealth of Massachusetts receiving the Bechtel State Payment Amount and as soon as feasible after receipt, the Commonwealth of Massachusetts agrees to pay \$96,000 to Relator by electronic funds transfer. It is expressly understood and agreed that the Commonwealth of Massachusetts in no way promises, guarantees, nor is liable to the Relator for the collection or payment of any funds pursuant to this Agreement or the payment of the Relator's share as provided herein for funds not actually collected and received by the Commonwealth of Massachusetts.

10. It is the intent of the Parties and a term of this Agreement that the Bechtel Fund Amount, the PB Fund Amount, the PB State Payment Amount (paragraph 5), and all but \$18,988,000 of the Bechtel State Payment Amount (paragraph 3) be placed in a fund established by the Commonwealth of Massachusetts (the "State Fund") to complete and maintain the CA/T Project.³ The State Fund shall be established for the sole purpose of paying the costs of, or reimbursing the commonwealth or the Massachusetts Turnpike Authority for costs incurred in connection with, repairs and maintenance of the central artery and Ted Williams tunnel, if such repairs and maintenance relate to conditions not caused by ordinary or routine wear and tear. The term "repairs and maintenance" shall include, without limitation, repairs, maintenance, inspection, monitoring, and testing of the central artery, the Ted Williams tunnel and the systems and components thereof. Disbursements from the State Fund shall not be permitted for, and monies in the State Fund shall not be used for, the cost of repairs

³ Of the \$18,988,000 that is not being deposited in the State Fund, \$1,750,000 shall be paid to the City of Boston pursuant to paragraph 3; \$142,000 shall be paid to the MBTA pursuant to paragraph 3; \$17,000,000 shall be paid into the Central Artery and Statewide Road and Bridge Infrastructure Fund; and \$96,000 shall be paid to the Relator pursuant to paragraph 9.

and maintenance relating to conditions caused by ordinary or routine wear and tear. The Commonwealth of Massachusetts shall place said funds in the Central Artery/Tunnel Project Repair and Maintenance Trust Fund established by Mass. Gen. Laws, ch. 10, § 63A, as enacted by 2007 Mass. Acts ch. 228 (the "State Statute"). The State Fund will be administered by the Commonwealth of Massachusetts. The Parties understand that the Federal Highway Administrator's approvals that are referenced in § 63A(c) of the State Statute are discretionary and will take place pursuant to his/her authority under federal statutes and regulations, including, but not limited to, 23 U.S.C. § 106, and 23 C.F.R. part 630. The United States and the Commonwealth of Massachusetts understand that approvals provided by FHWA pursuant to this paragraph shall satisfy the requirement for approval by the Federal Highway Administrator set forth in § 63A(c) of the State Statute. The United States and the Commonwealth of Massachusetts further agree that the powers to direct payment granted to the United States Attorney for the District of Massachusetts by § 63A(e) of the State Statute shall not be exercised by the United States Attorney and are hereby disclaimed. However, the United States does not waive or disclaim any rights it may have to otherwise enforce this paragraph or § 63(A) of the State Statute. Any failure by the Commonwealth of Massachusetts or the United States in the operation, management, or disbursement of the State Fund shall not provide grounds for the Joint Venturers to assert a breach of this Agreement.

11. In the event that the Joint Venturers fail to pay any or all of their respective payment amounts (i.e., the Bechtel Payment Amount or PB Payment Amount) pursuant to paragraphs 1 through 7 above within thirty days of the due date, or otherwise materially breach this Agreement, any dismissals and non-prosecution as to the breaching Joint Venturer shall, at the United States' and the Commonwealth of Massachusetts' option, be null and void; the payment amount of the breaching Joint Venturer (i.e., the Bechtel Payment Amount or the PB

Payment Amount) referenced above shall become immediately due and payable (less any payments made to date), and shall bear interest at the rate of 12% compounded annually as of the date of default until payment by the breaching Joint Venturer is made in full; and the United States and the Commonwealth of Massachusetts may, at their option, 1) rescind releases given to the breaching Joint Venturer (without tendering to Bechtel any portion of the Bechtel Payment Amount or to PB any portion of the PB Payment Amount, if any, already paid), and/or 2) file a Stipulated Judgment against the breaching Joint Venturer for the Payment Amount less the amount of payments made by the breaching Joint Venturer under this Agreement, in the United States District Court for the District of Massachusetts. The breaching Joint Venturer agrees not to contest any collection action undertaken by the United States or the Commonwealth of Massachusetts pursuant to this paragraph, either administratively or in any state or federal court. The breaching Joint Venturer agrees to pay the United States and the Commonwealth of Massachusetts all reasonable costs of collection and enforcement of this Agreement, including attorneys' fees and expenses. For purposes of enforcement of this provision, the breaching Joint Venturer expressly agrees to waive and not to plead, argue, or otherwise raise any defense under the theories of statute of limitations, statute of repose, contractual limitations, contractual repose, laches, estoppel or similar theories, to any civil, criminal or administrative claims which are filed by the United States or the Commonwealth of Massachusetts within 180 calendar days of written notification to the breaching Joint Venturer that this Agreement has been made a nullity provided that the United States or the Commonwealth of Massachusetts provides such written notification within 120 days of the failure to pay.

12. In the event that Bechtel or PB, or all or substantially all of Bechtel's or PB's assets, are sold, acquired (through any means), consolidated, merged into another entity, or dissolved, at any time before all payments pursuant to this Agreement have been made, Bechtel and PB each agrees that the remaining amount that it owes under this Agreement shall be paid on

or before the date of the closing of the sale or execution of the event, as enumerated above in paragraphs 1-7.

13. Subject to the provisions contained in paragraphs 14 and 17 below, in consideration of the obligations of each of the Joint Venturers set forth in this Agreement, and contingent upon receipt of full and final payment from each Joint Venturer described above, the United States Attorney's Office for the District of Massachusetts hereby releases each Joint Venturer, and its respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates from all criminal claims with respect to the Federal Covered Conduct. Furthermore, the United States hereby releases each Joint Venturer, and its respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates, including all employees, officers, directors, servants, attorneys, and agents of the Joint Venture from all civil monetary claims under the False Claims Act, 31 U.S.C. § 3729, and common law theories of payment by mistake, unjust enrichment and fraud, and any other statute creating causes of action for civil damages or civil penalties which the Civil Division of the Department of Justice has actual or present authority to assert and compromise pursuant to 28 C.F.R. Part O, Subpart I, Section 0.45(d) (1999) for the Federal Covered Conduct.

14. Notwithstanding any term of this Agreement, the United States specifically reserves and does not release as to any entity or person (including the Joint Venturers) the following:

a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);

b. Any administrative action or liability, including suspension and/or debarment, except that the United States Attorney's Office for the District of Massachusetts agrees that it will not seek or recommend suspension or debarment;

c. Any liability, including criminal liability, to the United States (or its agencies) for any conduct other than the Federal Covered Conduct;

d. Any liability based upon such obligations as are created by this Agreement;

e. Any liability for personal injury or death, except that any claims for personal injury or death arising out of the Event shall not be reserved by this subparagraph;

f. Any liability for property damage or for other consequential damages, except damage to the tunnel structures themselves shall not be deemed property damage for purposes of this subparagraph;

g. Any criminal liability of individuals, including officers and employees of the Joint Venturers, except the United States Attorney's Office for the District of Massachusetts represents that it has no present intention of charging any officer or director of Bechtel Infrastructure Corp. or PB Americas, Inc., or their respective affiliates, with any crime. The United States Attorney's Office for the District of Massachusetts reserves the right to bring criminal charges against any officer, director or employee of Bechtel Infrastructure Corp. or PB Americas, Inc. in the future if sufficient evidence of criminal conduct warrants indictment. Furthermore, Bechtel Infrastructure Corp. and PB Americas, Inc. agree that this representation provides no rights or remedies to Bechtel Infrastructure Corp. or PB Americas, Inc. or to any officer, director or employee of either entity to challenge the validity of any future indictment or to breach this agreement if such criminal charges are filed subsequent to the date of this agreement;

h. Any claims against Powers Fasteners, Inc., its predecessors, affiliates, successors and assigns, the Section Design Consultants, general contractors, subcontractors, or material suppliers; and

i. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including the quality of goods and services, provided by the Joint Venturers except for the Federal Covered Conduct.

15. Subject to the provisions contained in paragraphs 16 and 17 below, in consideration of the obligations of the Joint Venturers set forth in this Agreement, and contingent upon receipt of full and final payment described above, the State Parties hereby release the Joint Venturers, their respective corporate heirs, successors, assigns, affiliates, and parent corporations, including all employees, officers, directors, servants, attorneys, and agents thereof, from all causes of action, claims and damages (including diminution of value) for the State Covered Conduct. In addition, subject to the provisions contained in paragraphs 16 and 17 below, in consideration of the obligations of the Joint Venturers set forth in this Agreement, and contingent upon receipt of full and final payment described above, the State Parties hereby release the Joint Venturers, their respective corporate heirs, successors, assigns, affiliates, and parent corporations, including all employees, officers, directors, servants, attorneys, and agents thereof, from all claims for and causes of action for recovery or reimbursement of costs for: (a) the specific cost recovery items listed in Exhibit B hereto and/or (b) investigations and repairs for the specific items contained in Phase I and I(a) of the Wiss Janney Stem to Stern audit, which items are listed in Exhibit C hereto.

16. Notwithstanding any term of this Agreement, the State Parties specifically reserve and do not release as to any entity or person (including the Joint Venturers) the following:

- a. Any claims arising under the state tax laws;
- b. Any administrative action other than the following: a suspension and/or debarment that is based on State Covered Conduct or the specific items contained in Exhibits B and C, provided that such conduct or items do not lead to a Catastrophic Event as defined *infra* at paragraph 17;
- c. Any liability, including criminal liability, to the State Parties except as specifically released in paragraph 15 above;

- d. Any liability based upon such obligations as are created by this Agreement;
- e. Any liability to third parties for personal injury, death, property damage or other consequential damages;
- f. Any claims against Powers Fasteners, Inc., its predecessors, affiliates, successors and assigns, the Section Design Consultants, general contractors, subcontractors, or material suppliers; and
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including the quality of goods and services, provided by the Joint Venturers except for the State Covered Conduct and the specific items listed in Exhibits B and C.

17. A.(1) Notwithstanding any term of this Agreement, the United States and the State Parties also reserve and do not release as to any entity and person (including the Joint Venturers) any and all claims, causes of action and administrative remedies (including suspension and debarment) arising from or relating to any and all future "Catastrophic Event(s)." For purposes of this Agreement, the term Catastrophic Event shall be defined as any accident, incident, occurrence, or event (arising out of a single accident, incident, occurrence, or event or series of related accidents, incidents, occurrences, or events), relating to the CA/T Project and whether or not relating to the Federal Covered Conduct, the State Covered Conduct, or the specific items listed in Exhibits B and C, for which the Joint Venture is liable, and resulting in aggregate costs in excess of \$50 million. A Catastrophic Event shall also be defined to include any defect relating to the CA/T Project whether or not relating to the Federal Covered Conduct, the State Covered Conduct or the specific items listed in Exhibits B and C, for which the Joint Venture is liable, and for which it is discovered that the aggregate costs of repairs to prevent or avoid what the Government reasonably

believes to be a potential Catastrophic Event exceed \$50 million. The term “aggregate costs” as used in this paragraph 17 shall include reasonably incurred costs such as, for example, the costs of investigation, inspection, testing, redesign and/or repair; loss of toll revenue; and public safety costs following and resulting from the Catastrophic Event, but, with respect to repairs made to prevent or avoid a potential Catastrophic Event, shall not include the incremental cost of upgrades to the Project except those repairs which are consistent with engineering standards prevailing at the time the repairs are made. Separate and independent accidents, incidents, occurrences, events, or defects that are not part of a sequence that causes a single Catastrophic Event may not be aggregated in calculating aggregate costs.

A.(2) Subject to paragraph 17.D, in no event shall the Joint Venturers’ combined financial liability for any one Catastrophic Event exceed \$100 million. No insurance or other payment, reimbursement, credit, or value received by or due to the United States and/or the State Part(ies) shall alter, reduce, modify, change or eliminate the Joint Venturers’ payment obligations pursuant to this paragraph 17. No insurance or other payment, reimbursement, credit, or value received by or due to the Joint Venturer(s) shall alter, reduce, modify, change or eliminate the Joint Venturers’ payment obligations pursuant to this paragraph 17. Paragraph 41 of this Agreement shall apply to any recovery under this paragraph 17.

B. With respect to any Catastrophic Event taking place within ten years from October 10, 2007, the Joint Venturers agree not to assert, plead, argue or otherwise raise in any claim, cause of action, or civil or administrative proceeding brought by the United States or the State Part(y)(ies) arising from or relating to any such Catastrophic Event any defense under the theories of statute of limitations, statute of repose, contractual time limitation, contractual repose, laches, or similar time-based defenses, including, but not limited to, the argument that 2003 Mass. Legis. Serv. Ch. 4, § 83(b) (S.B. 1949) (WEST) (“Massachusetts

Statute”) is inapplicable, unconstitutional, or unlawful (hereinafter referred to as “Limitations Defenses”), provided that the proceeding is commenced within 365 days following the Catastrophic Event. The Joint Venturers’ waiver of the Limitations Defenses shall be limited to claims, causes of action, and civil and administrative proceedings arising out of or relating to such Catastrophic Event, and, except as set forth in sections A and B of this paragraph 17 with respect to Limitations Defenses and as otherwise set forth in paragraphs 11, 26, 27, and 32(b) of this Agreement, the Joint Venturers shall not be deemed to have waived any defense to any proceeding brought by or on behalf of the Government or any third party. With respect to any proceeding(s) arising out of or relating to any Catastrophic Event taking place more than ten years from October 10, 2007, or with respect to any Catastrophic Event taking place within ten years from October 10, 2007 but as to which the Government initiates a proceeding more than 365 days following the Catastrophic Event, the Joint Venturers are not barred from raising any of the Limitations Defenses; nor are the United States or the State Parties barred from seeking to refute any defenses raised by the Joint Venturers, including by invoking the Massachusetts Statute.

C. Subject to paragraph 17.D, all proceedings initiated by the United States or State Part(y)(ies) pursuant to this paragraph 17, including but not limited to the determinations of whether any accident, incident, occurrence, event or defect relating to the CA/T Project constitutes a Catastrophic Event, whether a Catastrophic Event is due to the liability of the Joint Venture, and the damages recoverable, if any, shall be determined and resolved pursuant to binding arbitration in accordance with the procedures described herein. Provided, however, any issue under subparagraph 17.D. is not subject to arbitration. The arbitration will take place before a panel of three arbitrators, which will consist of one arbitrator chosen by agreement of the Joint Venturers, one chosen by agreement of the United States and the Commonwealth of Massachusetts, and one chosen by agreement of the Joint Venturers, the

United States and the Commonwealth of Massachusetts. The panel will be composed of at least two former judges, at least one of whom shall be a former federal judge (or U.S. Magistrate Judge). The arbitration shall take place in Boston, Massachusetts. The arbitration panel will provide a written opinion detailing the reasons for its decision, and the decision must be issued within two years of commencement of arbitration. Any such binding arbitration will be conducted pursuant to the JAMS comprehensive arbitration rules and procedures, except that the parties herein agree that any arbitration proceeding conducted pursuant to this paragraph 17.C. shall be open to the public and, at the conclusion of the arbitration, the arbitrators' decision and any transcripts generated therein will be accessible to the public. If the arbitration panel determines that arbitration is not practical because of inability to involve a necessary party in the arbitration, then the Parties will be permitted to seek relief in court and will not be mandated to arbitrate the dispute pursuant to this provision.

D. Neither the \$100 million limit on the Joint Venturers' combined financial liability for any one Catastrophic Event (contained in paragraph 17.A.(2)) nor the arbitration provisions (contained in paragraph 17.C.) shall apply to any claims, causes of action or civil or administrative proceedings that the United States and/or the State Part(y)(ies) could assert without reliance upon the other provision(s) within paragraph 17.

18. The Joint Venturers agree not to seek contribution against any entity, including each other, that would inhibit that entity from contributing to this monetary resolution of the Federal Covered Conduct, the State Covered Conduct and the specific items listed in Exhibits B and C. This paragraph shall not otherwise prevent a Joint Venturer from fulfilling its obligations to its insurers in non-governmental third-party litigation relating to the Federal Covered Conduct, the State Covered Conduct and/or the specific items listed in Exhibits B and C.

19. In consideration of the obligations of the Government set forth in this Agreement, the Joint Venturers and their predecessors, successors, subsidiaries, corporate parents and affiliates fully and finally release the Government, their agencies, offices, departments, employees, servants, attorneys, officers and agents from any and all claims (including attorneys' fees, costs, and expenses of every kind and however denominated), actions, causes of action, suits, debts, damages (also including consequential damages), judgments, liabilities, demands and controversies whatsoever, whether matured or unmatured, whether at law or in equity, which the Joint Venturer(s) have asserted, could have asserted, or may assert in the future with respect to the Federal Covered Conduct, the State Covered Conduct and/or the specific items listed in Exhibits B and C.

20. Relator and his heirs, successors, beneficiaries, attorneys, agents, and assigns agree not to object to this Agreement and agree and confirm that this Agreement and the allocation of the amounts are fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B) and M.G.L. c. 12, § 5A et seq. and, conditioned upon the receipt of Relator's share, Relator, for himself individually, and for his heirs, successors, beneficiaries, agents, attorneys, and assigns, fully and finally releases, waives, and forever discharges the United States and its officers, agents, and employees, and the Commonwealth of Massachusetts and its agencies, offices, departments, employees, servants, attorneys, officers and agents, from any claims arising from or relating to 31 U.S.C. § 3730 and/or M.G.L. c. 12, § 5A et seq., and from any claims arising from the filing of the Qui Tam Action against Bechtel Corp. and PB; and from any other claims for a share of the Settlement Amount; and in full settlement of any claims Relator may have under this Agreement; and he expressly waives the opportunity for a hearing on any objection to this Agreement pursuant to 31 U.S.C. § 3730(c)(2)(B) and M.G.L. c. 12, § 5A et seq. This Agreement does not resolve or in any manner affect any claims the United States has or may have against the Relator

arising under Title 26, U.S. Code (Internal Revenue Code), or any claims arising under this Agreement, nor does it resolve or in any manner affect any claims the Commonwealth of Massachusetts has or may have against the Relator arising under its state tax laws or any claims arising under this Agreement. The Relator expressly waives any claims to the United States' and the Commonwealth of Massachusetts' share of the Payment Amounts and Fund Amounts described in paragraphs 1-7 of this Agreement, except as expressly stated in paragraphs 8 and 9 of this Agreement.

21. Conditioned upon the payment described in paragraphs 8 and 9 above, Relator, for himself, and for his heirs, successors, beneficiaries, attorneys, agents, and assigns, agrees to release the Joint Venturers, their respective predecessors, corporate heirs, successors, assigns, affiliates, and parent corporations, including all officers, directors, employees, servants, attorneys, and agents thereof from any liability to Relator arising from the filing of the Qui Tam Action, or under 31 U.S.C. § 3730(d) and/or under M.G.L. c. 12, § 5A et seq. for expenses or attorney's fees and costs. In consideration of the obligations of the Relator set forth in this Agreement, the Joint Venturers, their predecessors, subsidiaries, corporate parents, affiliates, agents, employees, servants, successors, and assigns hereby fully and finally release the Relator and his respective heirs, successors, beneficiaries, assigns, agents, and attorneys from claims they have asserted, could have asserted, or may assert in the future against the Relator arising from the filing of the Qui Tam Action.

22. Within seven (7) business days after receipt of the payments described in paragraphs 2-4 and 6 and 7.a. of this Agreement, the United States and the Commonwealth of Massachusetts will file a Notice of Intervention in the Qui Tam Action, and the United States, the Commonwealth of Massachusetts and Relator will file a joint stipulation of dismissal with prejudice as to the Joint Venturers, as set forth in Exhibit F, in the Qui Tam Action.

23. Relator represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

24. Within fourteen (14) calendar days of the receipt by the Commonwealth of Massachusetts of all payments due in calendar year 2008 under the Agreement, the Commonwealth of Massachusetts and the Joint Venturers shall execute and file stipulations of dismissal with respect to the Joint Venturers, with prejudice, in the matters Commonwealth of Massachusetts, et al. v. Bechtel Corporation, et al., Civil Action No. 06-4933 (Massachusetts Superior Court, Suffolk Division), including the December 20, 2006 Complaint by Intervenor City of Boston, and Commonwealth of Massachusetts, et al. v. Bechtel Corporation, et al., Civil Action No. 04-1151 (Massachusetts Superior Court, Suffolk Division).

25. PB has provided financial statements to the United States and the Commonwealth of Massachusetts for its parent company Parsons Brinckerhoff, Inc. Those financial statements consist of annual audited financial statements prepared in accordance with GAAP for fiscal years ending in 2004, 2005 and 2006 and unaudited quarterly financial statements for the first three quarters of the fiscal year ending in 2007. PB acknowledges that the United States and the Commonwealth of Massachusetts have relied on the accuracy and completeness of those financial statements in reaching this Agreement. PB warrants that the financial statements are complete and accurate in all material respects and current for the periods covered. In the event the United States and/or the Commonwealth of Massachusetts learns of asset(s) in which Parsons Brinckerhoff, Inc. had an interest at the time the financial statement(s) were prepared that were not reflected in the financial statement(s), or in the event the United States and/or the Commonwealth of Massachusetts learns of any misrepresentation by Parsons Brinckerhoff, Inc. on, or in connection with, the financial statement(s); and in the event such nondisclosure or misrepresentation changes the "Total Shareholder Equity" set forth on the financial statement(s) by \$5,000,000 or more, the United States and/or the Commonwealth of

Massachusetts respectively may at its option: (a) rescind this Agreement and file suit and/or bring criminal charges based on the Federal Covered Conduct, the State Covered Conduct and/or the specific items listed in Exhibits B and C; or (b) let the Agreement stand and collect the full PB Payment Amount plus one hundred percent (100%) of the change in "Total Shareholder Equity" of Parsons Brinckerhoff, Inc. due to the nondisclosure or misrepresentation. PB agrees not to contest any collection action undertaken pursuant to this provision, except that PB reserves the right to contest the value of the change in "Total Shareholder Equity" of Parsons Brinckerhoff, Inc. This provision does not relate to, address, or in any way obligate Bechtel.

26. In the event that the United States or the Commonwealth of Massachusetts opts to rescind this Agreement pursuant to paragraph 25 above, PB agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, statute of repose, contractual time limitation, contractual repose, laches, or similar time-based defenses, to any civil or administrative claims that (a) are filed by the United States or the Commonwealth of Massachusetts within 180 calendar days of written notification to PB that this Agreement has been rescinded, and (b) relate to the Federal Covered Conduct, the State Covered Conduct, or the specific items listed in Exhibits B and C. This provision does not relate to, address, or in any way obligate Bechtel.

27. The Joint Venturers waive and shall not assert any defenses the Joint Venturers may have to any criminal prosecution, civil action, or administrative action relating to the Federal Covered Conduct, the State Covered Conduct, or the specific items listed in Exhibits B and C, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the United States Constitution (and/or any cognate provisions in the Massachusetts Constitution), or under the Excessive Fines Clause in the Eighth Amendment of the United States Constitution (and/or any cognate provisions in

the Massachusetts Constitution), this Agreement bars a remedy sought in such criminal prosecution, civil action or administrative action.

28. Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Bechtel and PB Payment Amounts for purposes of the Internal Revenue Service laws, Title 26 of the United States Code or an agreement by the Commonwealth of Massachusetts concerning the characterization of the Bechtel and PB Payment Amounts for purposes of the Commonwealth of Massachusetts' tax laws.

29. The Joint Venturers agree to the following:

A. Unallowable Costs Defined: that all costs (as defined in Federal Acquisition Regulation 48 § 31.205-47) incurred by or on behalf of the Joint Venturers and their respective present or former officers, directors, agents, shareholders, employees, predecessors, subsidiaries, corporate parents and affiliates, successors and assigns in connection with (1) the Government's investigation of the matters covered by this Agreement; (2) the Joint Venturers' investigation and defense of the matters covered by this Agreement and any corrective action undertaken in direct response to the Government's investigation of the matters covered by this Agreement (including attorney's fees); (3) the negotiation and performance of this Agreement; or (4) the payments made to the Government pursuant to this Agreement, shall be unallowable costs for state and federal government contract accounting purposes. These amounts shall be separately accounted for by the Joint Venture and the Joint Venturers.

B. Future Treatment of Unallowable Costs: If applicable, these unallowable costs will be separately estimated and accounted for by each of the Joint Venturers for its respective incurred costs, and each agrees not to charge such unallowable costs directly or indirectly to any contracts with the United States or the Commonwealth of Massachusetts, or seek payment for such unallowable costs through any cost report, cost statement, information statement, or payment request submitted by them or any of their subsidiaries to the Government.

C. Treatment of Unallowable Costs Previously Submitted for Payment: If applicable, each of the Joint Venturers further agrees that within 120 days of the effective date of this Agreement, it will identify to the United States and the Commonwealth of Massachusetts any of its unallowable costs (as defined in this paragraph) included in payments previously sought in any payment requests already submitted by the Joint Venturer or its officers, directors, agents, employees, predecessors, subsidiaries, corporate parents, affiliates, successors and assigns and will request, and agrees, that such payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. The Joint Venturers agree that the United States and the Commonwealth of Massachusetts will be entitled to recoup from the respective Joint Venturer any overpayment received by it plus applicable interest as a result of the inclusion of such unallowable costs on previously-submitted requests for payment. Any payment due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice, and/or the affected agencies. Any payment due after the adjustments have been made shall be paid to the Commonwealth of Massachusetts pursuant to the direction of the Attorney General's Office, and/or the affected agencies. The United States and the Commonwealth of Massachusetts reserve their rights to disagree with any calculations submitted by either Joint Venturer on the effect of inclusion of unallowable costs (as defined in this paragraph 29) on the Joint Venturer's cost reports, cost statements, or information reports. Nothing in this Agreement shall constitute a waiver of the rights of the United States and/or the Commonwealth of Massachusetts to examine or reexamine the unallowable costs described in this paragraph.

30. Each Joint Venturer expressly warrants that it has reviewed its financial condition, that it is solvent within the meaning of 11 U.S.C. § 547(b)(3) and 548(a)(1)(B)(ii)(I), and believes in good faith that it will remain solvent during the respective Payment Periods; and expressly warrant that, in evaluating whether to execute this Agreement,

the Parties (a) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to the Joint Venturers, within the meaning of 11 U.S.C. § 547(c)(1), and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange.

31. The Joint Venturers agree to conduct an internal review into whether any design, construction, or materials defects identified during that review existed as of December 31, 2005 that reasonably may be expected to result in monetary losses sufficient to constitute a Catastrophic Event, as defined in paragraph 17.A.1 above or reasonably may be expected to pose a significant risk to public safety. The Joint Venturers agree to issue a written report to the Government (specifically, EOT and FHWA) within 180 days of the execution of this Agreement detailing the results of that review and the steps taken by the Joint Venturers to arrive at said results. Said report will contain a certification by the President of BINFRA, currently Clifford G. Mumm, and the President of PB, George J. Pierson, that the internal review and report result from reasonable due diligence. Upon request by the Joint Venturers, the Government may allow additional time for the Joint Venturers to complete their internal review. Failure by the Joint Venturers to comply with this provision will not constitute a material breach of this Agreement, but may constitute a violation of the corporate compliance agreements described in Exhibits G and H and may result in administrative action by the appropriate Government entities.

32. In the event that a Joint Venturer commences, or another party commences, within 91 days of complete payment by each of the Joint Venturers, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors, (a) seeking to have any order for relief of a Joint Venturer's debts, or seeking to adjudicate a Joint Venturer as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian

or other similar officials for a Joint Venturer or for all or any substantial part of its assets, the Joint Venturers agree that:

a. The Joint Venturers' obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547 or 548, and the Joint Venturers will not argue or otherwise take the position in any such case, proceeding or action that: (i) the Joint Venturers' obligations under this Agreement may be avoided under 11 U.S.C. § 547 or 548; (ii) the Joint Venturers were insolvent at the time this Agreement was entered into, or became insolvent as a result of the payments made to the United States or the Commonwealth of Massachusetts hereunder; or (iii) the mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to the Joint Venturers;

b. In the event that a Joint Venturer's or any other entities' obligations hereunder are avoided for any reason, including, but not limited to, the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States or the Commonwealth of Massachusetts, each in its sole discretion, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action or proceeding against the Joint Venturer for the claims that would otherwise be covered by the releases provided in this Agreement. If the United States or the Commonwealth of Massachusetts chooses to do so, the Joint Venturers agree that, for purposes only of any case, action, or proceeding referenced in the first clause of this paragraph, (i) any such claims, actions, or proceedings brought by the United States or the Commonwealth of Massachusetts are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case or proceeding described in the first clause of this paragraph, and that the Joint Venturer will not argue or otherwise contend that the United States' or Commonwealth of Massachusetts' claims, actions or proceedings are subject to an automatic stay; (ii) that the Joint Venturer will not plead, argue or otherwise raise any defenses under the theories of statute of limitations, statute of repose, contractual time limitation, contractual repose, laches, or similar time-based defenses, to any such civil or

administrative claims, actions or proceedings which are brought by the United States or the Commonwealth of Massachusetts within 30 calendar days of written notification to the Joint Venturer that the releases herein have been rescinded pursuant to this paragraph; and (iii) the United States and the Commonwealth of Massachusetts have valid claims against PB in the aggregate amount of \$47,230,500 and Bechtel in the aggregate amount of \$352,000,000, and they may pursue their claims, inter alia, in the case, action, or proceeding referenced in the first clause of this paragraph, as well as in any other case, action, or proceeding; and

c. The Joint Venturers acknowledge that their agreements in this paragraph are provided in exchange for valuable consideration provided in this Agreement.

33. In no event are the terms of this Agreement intended to, nor are they to be construed to, work a release of liability or in any way create a benefit in favor of any person or entity not a party to this Agreement, except as provided in paragraphs 13, 15, 20 and 21 of this Agreement.

34. Each party will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

35. Bechtel and PB each agrees to cooperate fully in any further investigation and any trial in which the Commonwealth or the United States is a party - whether pending or future - relating to the CA/T Project. Such cooperation shall specifically include, but not be limited to, facilitating the Government by providing access to witnesses, documents, and information for purposes of the investigation or trial, criminal or civil, of any individual or entity against whom an action or indictment is pending, including, but not limited to, Powers Fasteners, Inc.

Notwithstanding any provision of this agreement: (1) the Joint Venturers are not required to request of their respective current or former officers, agents, or employees that they forego seeking the advice of an attorney nor that they act contrary to that advice; and (2) the Joint Venturers are not required to take any action against their officers, agents, or employees for following advice

of counsel. In addition, the Joint Venturers shall, upon request, furnish to the United States and the Commonwealth of Massachusetts, all documents and records in their possession, custody or control relating to the conduct that is within the scope of any ongoing federal or state investigation, trial or other proceeding arising out of the CA/T Project.

36. The Joint Venturers specifically agree to waive any attorney-client privilege or claim of work product protection regarding conduct for which claims of an advice of counsel defense or claims of good faith defense based upon attorney advice are made by current or former officers, directors, employees and agents of the Joint Venturers if such a claim or defense is made in connection with work performed on the CA/T Project relating to the Federal Covered Conduct, the State Covered Conduct, or the specific items listed in Exhibits B and C in any ongoing federal or state investigation or trial or other proceeding in which the United States Attorney's Office for the District of Massachusetts or the Commonwealth of Massachusetts is a party. Breach of this provision shall constitute a material breach of this Agreement and shall entitle the United States Attorney's Office for the District of Massachusetts and the Commonwealth of Massachusetts to all available legal remedies including, but not limited to, those which are enumerated in paragraph 11 of this Agreement. The United States Attorney's Office for the District of Massachusetts' and/or the Commonwealth of Massachusetts' use of privileged information or documents disclosed pursuant to this provision is limited to assessing or challenging the validity of the advice of counsel or good faith defense that is being offered, and the United States Attorney's Office for the District of Massachusetts and the Commonwealth of Massachusetts specifically agree not to argue in any proceeding or forum that the disclosure of information or documents pursuant to this provision constitutes a waiver of privilege with regard to documents or information that are not shared pursuant to this Agreement. The Joint Venturers' cooperation under this provision in no way limits or

otherwise alters their ability to defend themselves in third party litigation related to the CA/T Project.

37. Bechtel and PB have entered into corporate compliance agreements with the Commonwealth of Massachusetts, copies of which are attached hereto as Exhibits G and H, respectively. Bechtel and PB will immediately upon execution of this Agreement begin to implement their obligations under these agreements. Breach of the obligations contained in the preceding sentence shall constitute a material breach of this Agreement and shall entitle the Government to all available legal remedies including, but not limited to, those which are enumerated in paragraph 11 of this Agreement. A breach of a provision contained in the attached corporate compliance agreements shall not, in and of itself, constitute a material breach of this Agreement.

38. This Agreement anticipates a satisfactory resolution with the Joint Venturers and the Section Design Consultants for \$85,000,000, plus accrued interest, a copy of which is attached hereto as Exhibit I. To the extent there is any conflict between Exhibit I and this Agreement, the text of this Agreement shall control. Any monies the Joint Venturers pay to achieve such a resolution shall be credited with respect to their payment obligations to the Commonwealth of Massachusetts in paragraphs 1, 3 and 6 (for Bechtel) and paragraphs 1 and 7 (for PB). In the event that any other party to Exhibit I or any insurer for any party to Exhibit I fails to meet its payment obligations under Exhibit I by or before January 28, 2008, the United States and State Parties, only by mutual agreement, shall have the remedy, at their discretion, of declaring this Agreement null and void; in the event of such declaration, the Government shall return all funds paid under this Agreement.

39. If any Defendant materially breaches the Agreement, such a breach does not in any way affect or alter the rights of the non-breaching Defendant(s) under the Agreement.

40. This Agreement, including the exhibits and the letter referenced in paragraph 46, constitutes the complete agreement between the Parties.

41. If the Commonwealth of Massachusetts recovers a judgment against any other entity involved with the State Covered Conduct and/or relating to the specific items listed in Exhibits B and C, and that entity in turn obtains a non-appealable judgment against Bechtel or PB, or their respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates, relating to the State Covered Conduct and/or the specific items listed in Exhibits B and C on the basis of contribution,

- A. The Commonwealth of Massachusetts agrees to reduce its judgment against such entity in an amount sufficient to cover or otherwise hold Bechtel and/or PB (or their respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates) harmless from that entity's claim over against Bechtel and/or PB (or their respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates); and
- B. The Commonwealth of Massachusetts further agrees that it will join Bechtel and/or PB (or their respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates) in filing a motion or proceeding seeking a court determination that this Agreement constitutes a release or settlement in good faith.

42. The Commonwealth of Massachusetts further agrees that, to the extent that it settles any claims it may have against any other entity relating to the State Covered Conduct and/or the specific items listed in Exhibits B and C and provides a release to the entity, it will use good faith efforts to obtain a release of Bechtel or PB (and/or their respective predecessors, subsidiaries, corporate parents, successors, assigns, and affiliates) from such entity (in form equivalent to the releases contained herein) of any claims relating to the State Covered Conduct and/or the specific items listed in Exhibits B and C on the basis of contribution.

43. The provisions of this Agreement shall be binding upon the Parties to it, their affiliated entities, and their collective successors and assigns.

44. All Parties consent to the public disclosure of this Agreement.

Notwithstanding this provision, the Joint Venturers agree that they will not, through present or future attorneys, board of directors, officers, including officers of parent corporations, or public spokespeople employed or engaged by the Joint Venturers, make any public statement, or any statement or filing in litigation (including any statement made by an individual in a representative capacity on behalf of the Joint Venturer(s) in any legal proceeding (e.g., pursuant to Fed. R. Civ. P. 30(b)(6) or Mass. R. Civ. P. 30(b)(6)), but excluding truthful testimony under oath by individuals not speaking in a representative capacity on behalf of the Joint Venturer(s)), materially contradicting any statement set forth in Exhibit A. Each such material contradiction of Exhibit A shall result in a liquidated damages payment of \$1 million payable by the breaching Joint Venturer (\$500,000 to the United States and \$500,000 to the Commonwealth of Massachusetts).

45. In connection with this Agreement (including, but not limited to, paragraph 17 of this Agreement), Bechtel Infrastructure Corp. shall be treated for all purposes as a member of the Joint Venture, and the Defendants agree not to assert, plead, argue or otherwise raise in connection with any actions or proceedings arising out of this Agreement that, in naming Bechtel Infrastructure Corp., the wrong party has been named or that Bechtel Infrastructure Corp. was not a member of the Joint Venture at the material time(s).

46. Bechtel Corp. (and any successors) has agreed to guarantee the payment of Bechtel Infrastructure Corp.'s financial obligations arising out of this Agreement, including, but not limited to, Bechtel Infrastructure Corp.'s financial obligations as they may arise under paragraph 17 of this Agreement. In this regard, Bechtel Corp. has provided the Government

with a letter containing representations concerning the financial viability of Bechtel Corp. upon which the Government has relied in entering into this Agreement.

47. This Agreement may not be amended except by written consent of the Parties.

48. Each person who signs this Agreement in a representative capacity warrants that he or she is duly authorized to do so. The undersigned Joint Venturer signatories represent and warrant that they are authorized by their Board of Directors to execute this Agreement. The undersigned signatory for the Relator represents and warrants that he/she is authorized to execute this Agreement on behalf of the Relator.

49. This Agreement is binding on Relator's successors, transferees, heirs, beneficiaries and assigns.

50. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

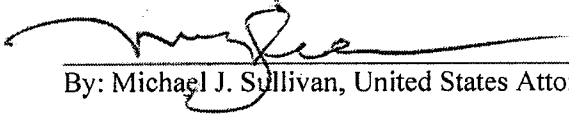
51. This Agreement is effective on the date of the signature of the last signatory to the Agreement. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Agreement.

52. The Parties agree that neither the Government nor the Joint Venturers shall be deemed the drafter of this Agreement and thus no inferences concerning the terms of this Agreement shall be drawn against either the Government or the Joint Venturers on that ground.

53. The Joint Venturers and Relator represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by
their authorized representatives:

The United States Attorney's Office for the District of Massachusetts


By: Michael J. Sullivan, United States Attorney

The Commonwealth of Massachusetts



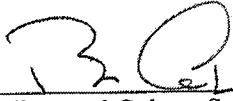
By: Martha Coakley, Attorney General of the Commonwealth of Massachusetts

Massachusetts Highway Department

Handwritten signature of Bernard Cohen in black ink.

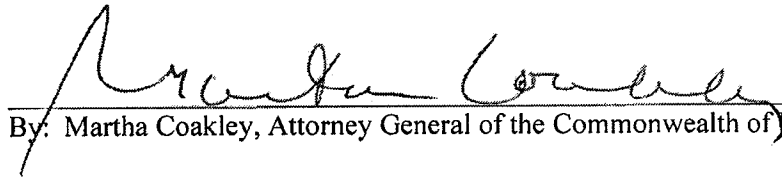
By: Bernard Cohen, Secretary of Transportation, Commonwealth of Massachusetts

Massachusetts Executive Office of Transportation and Public Works

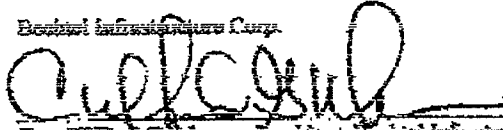


By: Bernard Cohen, Secretary of Transportation, Commonwealth of Massachusetts

Massachusetts Turnpike Authority

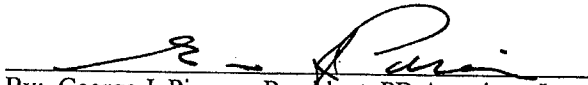

By: Martha Coakley, Attorney General of the Commonwealth of Massachusetts

Bechtel Infrastructure Corp.




By: Clifford G. Johnson, President, Bechtel Infrastructure Corp.

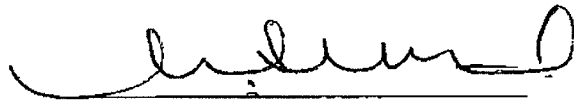
PB Americas, Inc. f/k/a Parsons Brinckerhoff Quade and Douglas, Inc.


By: George J. Pierson, President, PB Americas, Inc.

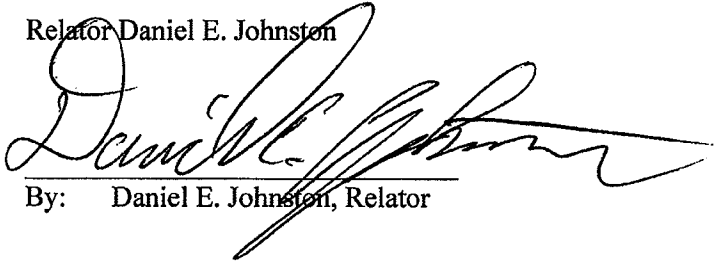
The Joint Venture of Bechtel/Parsons Brinckerhoff


By: (An Authorized Representative)

AND


By: (An Authorized Representative)


Relator Daniel E. Johnston



A large, stylized handwritten signature in black ink, appearing to read 'Daniel E. Johnston', is written over a horizontal line.

By: Daniel E. Johnston, Relator

AND



A handwritten signature in black ink, appearing to read 'Suzanne Durrell', is written over a horizontal line.

By: Suzanne Durrell, Esq.

Rory H. Delaney, Esq.,

Counsel for Relator Daniel E. Johnston

EXHIBIT A

The facts below are set out for the purposes of this agreement only. They are not a complete recitation of all of the facts known to the United States or the Commonwealth (e.g., the actions and culpability of Powers Fasteners, Inc.) and shall not constitute admissions by the United States or the Commonwealth for any purpose whatsoever. The Commonwealth and the United States are in possession of additional information and evidence, including testimony before one or more grand juries that would further amplify and provide context for the statements set forth below.

Construction Management Failures With Respect to Slurry Wall Construction

1. As the Management Consultant to the MHD and the MTA on the CA/T Project, B/PB, was responsible for, among other items, managing the design and construction of the Project. B/PB was retained by the Commonwealth based upon B/PB's national and international reputation for excellence. In 1998, the CA/T Project implemented an Integrated Project Organization ("IPO"). B/PB's responsibilities continued to be controlled by the contractual work programs with the Commonwealth of Massachusetts.
2. As part of its responsibilities, B/PB maintained a Resident Engineer's Field Office ("RE's Office") for most major construction contracts. B/PB employees who worked in the RE's Offices were responsible for overseeing and monitoring the construction contractors' compliance with the construction contract. Field Engineers assigned to the RE's Office were the B/PB employees primarily responsible for the day-to-day monitoring of the construction contractors'

- activities. Field Engineers reported to a B/PB Resident Engineer, who was the head of the RE's Office and the person responsible for B/PB's performance. The major responsibilities of the RE's Office were set out in a document called the Resident Engineer's Manual. B/PB's contract required that it develop and maintain the Resident Engineer's Manual, and that the services of the RE's Office be provided in accordance with that manual and other project procedures.
3. As part of its responsibilities, B/PB was responsible for verifying and certifying that construction contractors performed and completed their work pursuant to the terms and specifications of their respective construction contracts as a prerequisite to the final payment.
 4. Approximately 15 – 20 % of the payments that construction contractors received for the construction of the I-93 tunnel were payments to construct the tunnel walls. Often, CA/T tunnel walls were constructed using a building method known as “slurry wall construction.” “Slurry” is a viscous liquid ordinarily containing bentonite clay which holds excavations open prior to concrete placement. Contract specifications stated that concrete placement could not occur on a slurry wall construction unless the slurry itself was within certain specified tolerances. The tolerances were specified by the designers of the tunnel in order to help ensure that the walls were constructed properly. Most of the tunnel walls on the I-93 mainline tunnel contracts were slurry walls.
 5. B/PB oversaw and monitored construction compliance by the construction contractors by creating a reporting protocol which required certain documents to be completed prior to the commencement of certain construction activities. This

reporting protocol also required the documentation of construction deficiencies to assure that those deficiencies were properly addressed by the construction contractors and B/PB. Field Engineers were required to record significant activities and observations in Field Engineer Daily Reports (FEDRs). Any problems with construction noted in the FEDRs were to be investigated and addressed by the RE's Office. Under certain circumstances defined by the RE's Manual, a "Deficiency Report" ("DR") documenting deviations from contract specifications and/or procedures by the construction contractors was to be issued by B/PB. These reports were generally completed by one of B/PB's Field Engineers or the Resident Engineer. DRs were not supposed to be "closed out" until the particular deficiency was corrected.

6. B/PB field personnel were required to assure that "concrete placement cards" were properly filled out by the construction contractors and a representative from B/PB. Concrete placement cards were filled out for every concrete placement on the CA/T project. When the construction contractors were pouring concrete for a slurry wall, the concrete placement card was known as a "Reinforced Slurry Wall Concrete Placement Card" or "SPTC/Reinforced Slurry Wall Inspection & Concrete Placement Card." The purpose of the concrete placement card was to document that all inspections had been completed by the construction contractors' inspectors as well as B/PB's Field Engineers prior to the placement of concrete. With respect to slurry walls, the concrete placement card was to assure that the specific inspections and construction procedures necessary to the proper construction of a slurry wall panel had been completed. Project procedures stated

that the construction contractor was not authorized to place concrete if either the construction contractors or B/PB failed to complete the concrete placement card properly.

7. As part of its responsibilities, B/PB RE's Offices were required to respond to inquiries by the construction contractors. At times, construction contractors were required to fill out a "Non-conformance Report" ("NCR"), which like a DR, documented the construction contractors' deviations from contract specifications and/or procedures. Unlike DRs that were completed by B/PB personnel, NCRs were completed by the construction contractors. When alerted to a deficiency by the construction contractors, the RE's Office was required to assure that the reported deficiency was properly corrected. If the construction contractors did not know how to handle a deficiency or wanted to deviate from contract specifications, the construction contractors could present to the RE's Office a "Request for Information" ("RFI"), which documented the construction contractors' requests for authorization to deviate from contract specifications and/or make a repair to work that failed to meet contract specifications. An RFI required a response from B/PB sufficient to resolve the inquiry.

The C17A1 Contract

8. C17A1 was one of the CA/T "mainline tunnel" contracts which encompassed the northbound lanes of Interstate 93 ("I-93") from Congress Street to High Street in Boston and the southbound lanes of I-93 from High Street to Oliver Street. A major part of the contract included the construction of the tunnel walls. Modern Continental Construction ("MCC") was the construction contractor on C17A1.

9. On April 2, 1999, MCC placed concrete for slurry wall Panel EO-45. Panel EO-45 is located on the east wall of the I-93 northbound tunnel and was part of the slurry wall construction on C17A1. There were several problems with the installation of Panel EO-45. B/PB field personnel and subconsultants observed that MCC could not remove an obstruction in the trench, as required by contract specifications. B/PB field personnel allowed MCC to proceed with work despite knowing about the obstruction. The failure to remove the obstruction and the material encased by the obstruction resulted in a major structural defect in Panel EO-45. Moreover, as a result of the obstruction, MCC altered the reinforcing steel cage (“rebar cage”) designed for Panel EO-45 without authorization from the designer. B/PB field personnel knew it was improper to make any alteration to the rebar cage without final approval from a designer, but allowed the alteration nevertheless. As a result of the obstruction and/or the altered rebar cage, MCC could not properly place the concrete into the trench. As a direct consequence a large seam of unsound material became a part of Panel EO-45. B/PB did not issue a DR or otherwise flag the defect for further examination at a later date.
10. Despite knowing that Panel EO-45 was improperly constructed, MCC submitted a bill for payment for the construction in 1999. Because it had personnel at the site at the time the concrete was placed, B/PB should have known that the Panel had not been properly constructed. Furthermore, B/PB personnel or subconsultants documented the construction defects in Project files. Nevertheless, other B/PB personnel authorized payment for Modern’s services despite the fact that Panel EO-45 had not been constructed in accordance with contract specifications.

11. In or about December 2001, MCC identified a leak and a large defect in the slurry wall at Panel EO-45 and reported it to B/PB through an NCR. At or about that time, MCC also submitted an RFI requesting authorization for a suggested repair to the defect in Panel EO-45. B/PB requested additional information, which MCC failed to provide. Nevertheless, B/PB closed the RFI. The defect in the slurry wall panel was not properly repaired at that time nor was a repair procedure authorized for it.
12. Despite these opportunities, B/PB did not verify that MCC repaired the defect in Panel EO-45 according to repair procedures and B/PB did not issue a DR or any other documentation to address the problem. Despite documents maintained in Project files which indicate that the defect was not properly repaired, B/PB took no action, such as recouping payments or withholding additional retainage, and continued to authorize payment for MCC's work.
13. On September 15, 2004, the defect in slurry wall panel EO-45 burst and caused severe flooding of the roadway. This flooding created a public hazard that required closure of one lane of the I-93 northbound tunnel during peak hours and resulted in extensive traffic delays.
14. Inspection of all the slurry walls in the entire mainline tunnel conducted by B/PB subsequent to the Panel EO-45 "breach" revealed slightly over 200 unrepaired or inadequately repaired defects. Two were determined to be major (EO-45 and MW-85A), approximately 67 moderate, and approximately 142 minor requiring patching. C17A1 contained approximately 39 of these defects. Subsequent

- repairs of these defects and other work required nighttime lane closures of the I-93 tunnel for several years.
15. During that inspection process, B/PB noted another major structural defect in a slurry wall (a large seam of unsound material). That defect was in Panel MW-85A and had been previously detected and documented by B/PB personnel but had never been properly addressed. The defect in Panel MW-85A caused a leak in the slurry wall in January 2004.
 16. Approximately 230 concrete slurry wall panels were constructed on C17A1 between 1998 and 2001. Of these, approximately 210 of the concrete placement cards were not properly completed by B/PB and MCC. A review of the concrete placement cards reveals a systemic failure to meet contractual specifications, including slurry specifications, before concrete was placed.
 17. On or about and between April 22, 2002 and June 20, 2002, B/PB and MCC executed “Certificates of Beneficial Occupancy” for the C17A1 contract reflecting that the work was complete to the point that the MTA or a third party could safely occupy the area.
 18. On or about and between January 18, 2003 and March 21, 2003, B/PB and MCC executed a “Certificate of Substantial Completion” reflecting the substantial completion of C17A1 according to contract specifications. This part of the I-93 northbound tunnel was opened to the public on March 27, 2003.
 19. These Certificates of Beneficial Occupancy and Substantial Completion, which certified that the I-93 tunnel was safe for occupancy by third parties and built to specifications, were not true and accurate because documents prepared by B/PB

employees or its subconsultants and maintained in Project files demonstrated that B/PB knew that some of the slurry walls in the I-93 tunnel were not built according to contract specifications.

20. A review of project records by those B/PB individuals responsible for executing the Certificates of Beneficial Occupancy and Substantial Completion would have revealed the inaccuracy of the representations contained therein.

July 10, 2006 Ceiling Collapse

21. At about 11:01 p.m. on Monday, July 10, 2006, Angel and Milena Del Valle were traveling eastbound in the left lane of the Interstate 90 (I-90) connector tunnel to the Ted Williams Tunnel in Boston, Massachusetts when a section of the concrete suspended ceiling in the connector tunnel collapsed and struck their vehicle. Milena Del Valle, who was occupying the front passenger seat, was killed, and Angel Del Valle was injured.
22. The concrete panels in this section of the suspended ceiling were held in place by steel frames which were supported by adjustable hanger rods connected to roof brackets. The brackets were attached to the tunnel roof by stainless steel bolts that were held in place by an epoxy adhesive. This system was used in the eastern-most section of all three bores of the I-90 connector tunnel and intermittently throughout the remainder of the tunnel.
23. Gannett Fleming (“Gannett”) was the designer responsible for the final design of the suspended ceiling system in the I-90 connector tunnel. MCC was the contractor responsible for constructing the suspended ceiling system in the I-90 connector tunnel. Both Gannett and MCC were dependent upon the availability

of accurate and truthful representations regarding the epoxy from the manufacturer, Powers Fasteners, Inc. (“Powers”).

24. The epoxy that was used to suspend the ceiling was Power-Fast, Fast Set (item ## 8402 and 8422), a product marketed by Powers and sometimes labeled as NRC-1000 Gold, item # 8431 (herein collectively referred to as “Power-Fast, Fast Set”). Powers also sold an epoxy under the name Power-Fast, Standard Set.
25. Gannett’s design for the suspended ceiling for the easternmost section of the I-90 connector tunnel was finalized in October 1998. The specifications called for the use of a chemical adhesive type anchor system. Gannett prepared those specifications after being informed by a B/PB representative in January 1997 that there was a “Project wide” directive prohibiting the use of undercut anchors. There was never such a formal directive.
26. MCC produced to B/PB a series of submittals concerning the epoxy anchor system between May and November 1999. These submittals indicated that MCC intended to use Powers’ Power-Fast epoxy, without indicating whether it intended to use Fast Set or Standard Set. Gannett was the primary reviewer of these submittals and B/PB was the secondary reviewer. Gannett assigned review codes to these submittals that, according to written project procedures, should have precluded construction without an approved submittal.
27. Yet, B/PB’s RE did not follow project procedures and allowed MCC to undertake the work without approved submittals, although the approvals were ultimately obtained.

28. MCC began work on the epoxy anchor system in the connector tunnel portal area ceiling by drilling holes in June 1999 and had completed nearly all of the work by the end of 1999 using Power-Fast, Fast Set.
29. At the end of December 1999, MCC submitted to B/PB revised versions of its submittals. Again, Gannett was the primary reviewer and B/PB was the secondary reviewer. Gannett and B/PB gave these submittals a code that allowed work to proceed. The work required by the final, approved submittals did not differ from the work required by the initial submittals. These submittals had as an attachment a draft report prepared for the International Conference of Building Officials (“ICBO”) that indicated that Power-Fast, Standard Set, epoxy was permitted to be used for “long-term live load, dead load [such as the I-90 connector tunnel’s suspended ceiling], and short term loads . . .” but that Power-Fast, Fast Set, is permitted to be used for short-term loads such as those resulting from wind or earthquake forces. Both Gannett and B/PB failed to comprehend the limitation regarding Fast Set.
30. In the fall of 1999, representatives from B/PB and MCC observed five locations where epoxy anchors used to hold the suspended ceiling in place had migrated or displaced from the roof of the tunnel approximately one month after they were first installed. These particular anchors were among the earliest that Modern installed, and used to support the mock-up ceiling modules. The failed anchors caused B/PB to issue a Deficiency Report (“DR-1”) to MCC.
31. B/PB instructed MCC to conduct a physical inspection of the anchors with Powers to-determine the cause of the problem. Powers representatives met onsite

with MCC and B/PB representatives on two occasions in October, 1999. Powers failed to offer any conclusions why the anchors had pulled out, but did offer potential explanations, and recommended replacing the failed anchors and re-testing them. At no time did Powers disclose that Fast Set was unsafe for the tunnel application.

32. B/PB representatives exchanged e-mails in the weeks that followed indicating that they had not been able to identify a specific reason that the anchors in question had pulled out. The R.E. concluded that it was likely a combination of reasons. B/PB representatives also expressed a need to identify exactly which epoxy was being used in the suspended ceiling and to obtain its “track record.” B/PB did determine that Power Fast epoxy was being used but failed to appreciate the difference between Fast Set and Standard Set or to determine that Fast Set was unsafe for this application.
33. In early 2000, B/PB ordered Modern to re-test the anchors in the area of those that failed using a heavier load. Modern was also directed to test the anchors that had been installed in the HOV tunnel toward the east portal. Any anchors that failed were to be replaced.
34. From testing information, B/PB concluded that there had been “a learning curve” of installation of the anchors, and it closed DR-1 without testing anchor bolts in other areas of the tunnel bores and still unaware of the differences between Fast Set and Standard Set epoxy.

35. The anchor bolts in the area of the tunnel where the failure occurred were installed soon after the anchors installed in the HOV mock up area were pull tested. Thus, a “learning curve” explanation was flawed.
36. Additional observations of anchor bolt displacements were made by several B/PB field engineers in 2001 and 2002, although the bolts had passed the testing protocol using heavier loads put in place after DR-1. B/PB instructed MCC to replace and retest these bolts, with only a cursory evaluation of the epoxy itself and no consideration of the reopening of DR-1.
37. B/PB did not implement any formal monitoring program to identify additional displacement of epoxy anchor bolts. Nor did B/PB alert the MTA to the problem of bolts pulling out of the ceiling when it “turned over” the I-90 connector tunnel, thereby representing that the work was completed and consistent with all contract requirements.
38. On or about and between June 17, 2004 and August 9, 2004, B/PB and MCC executed “Certificates of Substantial Completion” reflecting the substantial completion of C09B2 according to contract specifications.
39. The I-90 Connector Tunnel was opened to the public on January 18, 2003 pursuant to various “Certificates of Beneficial Occupancy” executed by B/PB and MCC on or about and between September 13, 1999 and January 2003 reflecting that work was complete such that the MTA or a third party could safely occupy and utilize that tunnel area for its intended purpose.
40. These Certificates of Beneficial Occupancy and Substantial Completion certified that the connector tunnel was safe for occupancy by third parties and built to

specification. The Certificates were not true and accurate because a draft report prepared for the ICBO and attached to documents maintained in the Project files, if properly understood, indicated that potential anchor displacement would occur with the Fast Set formulation of the epoxy. B/PB should have required further investigation of the epoxy used in the tunnel ceiling system. Instead, B/PB relied on recommendations and information supplied by Powers, which failed to alert B/PB or Project personnel to the displacement problem.

41. A review of project records by those B/PB individuals responsible for executing the Certificates of Beneficial Occupancy and Substantial Completion, if they had ascertained the significance of the draft report prepared for the ICBO, would have revealed the probable inaccuracy of the representations made by B/PB in signing the certificates.
42. The National Transportation Safety Board (NTSB) determined that the cause of the ceiling collapse was the use of an epoxy anchor adhesive with poor “creep resistance,” that is, an epoxy formulation that was not capable of sustaining long-term loads inherent in the suspended ceiling design. This characteristic had been identified for Power-Fast, Fast Set epoxy in the draft report prepared for the ICBO which was attached to a December 1999 project submittal.
43. B/PB, among others, failed to account for creep resulting from the epoxy adhesive in the anchor system as a long-term failure mode in the I-90 connector tunnel.
44. In 1992, a B/PB engineer working on the CA/T Project had warned his superiors about the possibility of creep of the epoxy anchor bolts being used in the Ted Williams Tunnel’s suspended ceiling system.

45. Documents in the possession of B/PB in December 1999 reveal that B/PB noted that more information should be obtained about epoxy creep. No one from B/PB obtained creep test results for the epoxy from Powers.

Failure to Provide Oversight on Time and Material Billing

46. Generally, contracts on the CA/T project were fixed price contracts. Frequently, fixed price contracts were subsequently modified to provide for unanticipated additional work. Much of this additional work was paid on a “time and material” basis. This meant that the general contractor and its subcontractors (hereinafter “contractors”) were paid by the CA/T for actual expenses plus 10% for overhead and an additional 10% for profit.
47. This time and materials work was generated by changes to the original contract by the CA/T. When changes to a contract, known as “contract modifications,” were not bid at a specific price due to the uncertain scope of the new work or some other reason, they were tracked through the calculation of the actual costs incurred by the contractor performing the work. Thus, contractors were required by their contracts with MHD to detail the actual expenses they incurred in performing the work on a form titled, “Daily Report – Labor, Material & Equipment Form.” This form was commonly referred to as a “T & M” or “time and materials” slips.
48. Contractors were required to report on each time and materials slip the hours worked by each tradesperson and the classification of that tradesperson. The classification of each tradesperson determined the rate of pay for that tradesperson and, therefore, determined the amount of money that the contractors were paid for

that tradesperson's time. For example, an apprentice tradesperson is billed at a lower hourly rate than a journeyman. The contractor certified the accuracy of the information contained within the T & M slip. Pursuant to the terms of all CA/T general construction contracts and the Resident Engineer's Manual, B/PB's Resident Engineer's Office was required to verify that the information contained within the T & M slip was substantively correct.

49. It was a part of B/PB's contractual obligations after October 1, 2001 to provide qualified personnel to staff the Project's "Claims and Changes Department." Under the MTA's management, supervision and direction, the personnel administered payments to contractors including payments for time and materials work. The Claims and Changes Department was responsible to review the claims for accuracy and approve the claims for payment.
50. Contractors submitted thousands of T&M slips to the Claims and Changes Department in support of claims for payment due to claimed changes in the contract. Contractors also submitted spread sheets, summarizing the information contained on the T&M slips in support of the T&M packet.
51. Contractors at times incorrectly recorded, and certified as accurate, apprentice workers as journeymen workers on T&M slips, thereby inflating the cost of the work performed on the T&M slips. A review of the certified payroll submitted by the contractor to the CA/T, to which the Claims and Changes Department or B/PB could request access, would have uncovered the false information.
52. Contractors at times incorrectly submitted summary spread sheets that failed to record accurately the number of apprentices as having worked on T&M contract

modifications, when in fact apprentices had performed some of the work. A review of the T&M slips submitted in support of these spread sheets would have revealed the false information contained on the spread sheet. B/PB's Resident Engineer's Office failed to perform its obligations in this regard.

53. B/PB on certain occasions failed to adequately review the T&M packets, including the spread sheets and supporting T&M slips, and including reviewing certified payrolls for the contractors. As result, certain contractors received some inflated payments that they were not entitled to receive.

Failure to Provide Quality Assurance Regarding Concrete

54. Aggregate Industries supplied approximately 60% of the concrete used on the CA/T project. The vast majority of this concrete was placed in the project's tunnel walls, roofs and roadbeds.
55. The CA/T project established specifications for concrete depending on the particular application involved. Further, the CA/T project precluded the addition of water to concrete, for most applications, once the concrete had been batched at the concrete plant and generally required that the concrete be placed within ninety minutes of batching.
56. B/PB's contractual obligations required B/PB field engineers to be present for concrete placements involving tunnel structures. Further, B/PB was obligated to perform a variety of sampling tests at the work site as well as at a materials lab to verify that the concrete met contract specifications.
57. From approximately 1996 through 2004, Aggregate Industries engaged in a scheme to deliver non-specification concrete to the CA/T project. This non-

- specification concrete included concrete that was over ninety minutes old, concrete that had significant amounts of added water, and concrete that had not been batched pursuant to CA/T project specifications, although the concrete delivery tickets falsely represented that the concrete was within specification.
58. B/PB field engineers at the work site allowed concrete delivered by Aggregate Industries to be placed without identifying that it had been adulterated as described above. B/PB field engineers were occasionally present when water was added to concrete and when concrete was placed that was older than ninety minutes.
59. B/PB also failed to institute concrete testing protocols at the construction site as well as in the materials lab to determine that all concrete delivered to the Project met CA/T specifications and was placed pursuant to CA/T procedures.