

The responses to bidders' inquiries are provided for the bidders' convenience only. In some instances, the question and answer may represent a summary of the matters discussed rather than a word-for-word recitation. The responses may be considered along with all other information furnished to prospective bidders for the purpose of bidding on the project. The availability or use of information provided in the responses to contractors' inquiries is not to be construed in any way as a waiver of the provisions of Section 2-1.03 of the Standard Specifications or any other provision of the contract, the plans, Standard Specifications or Special Provisions, nor to excuse the contractor from full compliance with those contract requirements. Bidders are cautioned that subsequent responses or contract addenda may affect or vary a response previously given. Inquiries along with responses may be posted at the website only when the inquiries are submitted in any of the acceptable manner prescribed under the Notice to the Contractors and when the responses have already been communicated to the individual inquirers. Bidders' inquiries received over the phone must be followed-up and submitted in writing for an official response.

The Bidders' inquiries and Responses may be updated from time to time and bidders are enjoined to check the website regularly and immediately prior to the scheduled bid opening.

Caltrans District 8 Office is located at 464 W. Fourth Street, San Bernardino, CA 92401-1400.

Send Contractor Inquiries via email to d8_pbi@dot.ca.gov

The mailing address is 655 2nd Street, San Bernardino, CA 92402.

Phone (909) 383-4050

Fax (909) 383-6739.

All inquiries must include the contract number.

08-483304	
Inquiry No.	Inquiry/Response
1.0	<p>Question_1.0: An agreement regarding a stream or lake has been entered into by the Department of Transportation and the Department of Fish and Game. Copies of this agreement may be obtained at the Department of Transportation. Can we get a copy of this agreement?</p> <p>Response: Please find the attached file of the agreement below.</p>
1.1	<p>Question_1.1: Relations with California Regional Water Quality Control Board The location of the Seismic Retrofit on Bridge No. 54-0307, on SR 18 crossing Mojave River, is within an area controlled by the Regional Water Quality Control Board. Regional Water Quality Control Board Order No. 20Q4-004-DWQ has been issued covering work to be performed under this contract. The contractor shall be fully informed of rules, regulations, and conditions that may govern the Contractor's operations in the areas and shall conduct the work accordingly. Copies of the order may be obtained at the Department of Transportation. Can we get copies of this order?</p> <p>Response: Please find the attached file of the order below.</p>
2.0	<p>Question_2.0: Can you please provide copies of the project related Federal & State Permits...(Fish & Game, RWQCB, etc....)</p> <p>Response: Please find the attached files of agreement/order below.</p>
3.0	<p>Question_3.0: Number of working days not listed in this section (Section 4) as is usual. Interpretation_1: Reference is made to 160 days in Section 3 and on advertised listing.</p> <p>Response: This contract is advertised as an A + B contract. The working days (B) shall be determined by the contractor's bid. The maximum allowed days have been specified as 160 days.</p>
4.0	<p>Question_4.0: Has the State obtained a Form 'B' (right of way entry permit) with the rail road(UP)? What are estimated track and time windows?</p> <p>Response: Attached below please find the documents of "Railroad Service Contract" and the "Temporary Occupancy Permit". These two documents provide information for the above questions.</p>
5.0	<p>Question 5.0: As the anchors are sloped, oversize holes in the steel bracket will be required to facilitate erection of the bracket. What size holes will be allowed? Are standard flat / beveled washers to be used?</p> <p>Response: From Section 10-1.45 (Rock Anchors) of the Special Provisions: " Anchor holes shall be drilled into the concrete pier columns to the depth and the</p>

	<p><i>diameter recommended by the manufacturer."</i></p> <p><i>Oversize hole diameter may be drilled in the steel brackets for the sloped anchors, but shall not exceed 32 mm (or 1.25 in). Use hardened washers.</i></p>
5.1	<p>Question 5.1: At the upper steel brackets, the uppermost row of anchors are horizontal while the lower rows are sloped, compounding the problem of installing the steel bracket over the anchors. Please advise.</p> <p><i>Response: Suggestion: Oversize hole diameter in the steel bracket for the horizontal anchors should match the diameter of the anchor holes in the concrete pier. The steel bracket should already be in place prior to installation of the horizontal anchors.</i></p>
6.0	<p>Question_6.0: Stage 2,3 & 4 make reference to a "24 hr lane closure"...can you please clarify the "24 hr lane closure"???</p> <p><i>Response: The 24-Lane Hour Closure is specified in the Lane Closure Charts in the written Special Provisions</i></p>
7.0	<p>Question_1: does k-rail need to be pinned?</p> <p><i>Response: The K - Rail will not need to be pinned. At each end of the bridge there will be an excavation that is 1 meter deep and 9 meters long parallel to traffic. This excavation will be over the entire width of the roadway, however it will be built in three stages. It looks like there is enough room to place the K-Rail at least 2 feet from the edge of this excavation and pinning will not be required, however if the contractor wishes to place the K-Rail closer than 2 feet from the edge during work at these locations the Standard plan requires pinning adjacent to the excavation.</i></p>
8.0	<p>Question_8.0: Stage 2, 3 & 4 ...plans detail a "24-hr lane closure" ...please clarify....when and where is a 24 hr lane closure needed or used.</p> <p><i>Response: As written in the notes on the SC2, SC3 and SC4 the meaning of 24-hour lane closure is supposed to convey to the contractor that they have 24 continuous hours of work available for that stage. Also, within in the same note it specifies the number of lanes available in the 24-hour continuous lane closure: Stage 2 (2 lanes open in peak, 1 lane opposing), Stage 3 (2 lanes open in each direction), Stage 4 (2 lanes open in peak, 1 lane opposing). A comment about Stage 3 Plan sheet notes specifying a 24 hour closure. I think it could be a little misleading in that it seems you would have to follow the lane closure charts in Section 10.1.19 of the Special Provisions for the 24-hour lane closure, but this is not true. I was just trying to convey that work was going to be done continuously on a 24-hr basis with two lanes opened in each direction. The note does say two-lanes open in each direction.</i></p> <p><i>Section 10-1.19 Maintaining Traffic of the Standard Special Provisions provides more information regarding the times and open lanes during the nighttime and 24-hr lane closures. It provides the lane closure charts giving information as to how many lanes and at what times of the days lanes are open for a direction of traffic. Chart 1 is a nighttime closure for NB traffic, Chart 2 is nighttime closure for SB traffic, Chart 3 is 24-hour closure for NB traffic, Chart 4 is 24-hour closure for SB traffic. Remember the charts give the allowable number of lanes open at certain hours during the day. Therefore, since Chart 1 (NB) and Chart 2 (SB) provide differ amount of lanes at differ times for two differ directions, they must be combined to get the proper working schedule for night time closures since NB and SB traffic does run concurrently. Notice this detail is already inherent for Charts 3 & 4 since we are providing 2 lanes of open traffic for both the morning and evening peak traffic directions. If you observe the charts they are mirrored to one another. Since we are providing 2 lanes of traffic for the two different peak times of the day during Stages 2 and 4, notice the Traffic Handling Plans for Stages 2 and 4 have two different plans (NB and SB peak) each that call out portable delineators to be switched between the two adjacent lanes during the allowable times of day. Even though the note on SC-3 says a 24-hour closure, the intent was to convey a 24-hr continuous working period (with the existing lane configuration altered), hence SC-3 does not use Lane Closure Charts 3 and 4.</i></p>

	<p>Stage 1 - Use Lane Closure Charts 1 and 2 with Traffic Handling Plans TH-1 & TH-2 Stage 2 - Use Lane Closure Charts 3 and 4 with Traffic Handling Plans TH-3 & TH-4 Stage 3 - No Lane Closure Charts with Traffic Handling Plan TH-5 Stage 4 - Use Lane Closure Charts 3 and 4 with Traffic Handling Plans TH-6 & TH-7 Stage 5 - Use Lane Closure Charts 1 and 2 with a Traffic Handling Plan TH-1 & TH-2</p> <p>Stage 1: Estimated 5 working days - Night Closures Only - One Lane in Each Direction (Total 2 lanes of traffic - reduced capacity from 4 lanes - only during evening though) - During this stage we are preparing the median area for traffic to use during Stages 2, 3 and 4. The metal beam barrier on the bridge will be removed. Additionally, a large portion of the raised median between the Mojave River Br and Stoddard Wells Rd. signal will be removed and asphalt will be placed so vehicles can use it during stages 2, 3 and 4.</p> <p>Stage 2: Estimated 30 working days - 24-hr lane closure - Two-Lanes in Peak Direction and One Lane in opposing direction with a movable barrier to move between morning and evening peaks (Total 3 lanes of traffic - reduced capacity from 4 lanes) - During this Stage, northbound SR-18 traffic (going towards Victorville) will be crossed over to the southbound side (going towards Apple Valley) so work can be completed on the western portion of the bridge.</p> <p>Stage 3: Estimated 30 working days - 24-hr lane closure - Two-Lanes in both directions reduced to 11-ft. lanes (Total 4 lanes of traffic - no reduction in capacity) - During this Stage, traffic will move in its normal pattern with construction work down in the median.</p> <p>Stage 4: Estimated 30 working days - 24-hr lane closure - Two-Lanes in Peak Direction and One Lane in opposing direction with a movable barrier to move between morning and evening peaks (Total 3 lanes of traffic - reduced capacity from 4 lanes) - During this Stage, southbound SR-18 traffic (going towards Apple Valley) will be crossed over to the northbound side (going towards Victorville) so work can be completed on the eastern portion of the bridge.</p> <p>Stage 5: Estimated 5 working days - Night Closures Only - One Lane in Each Direction (Total 2 lanes of traffic - reduced capacity from 4 lanes - only during evening though) - During this stage we are putting back the median to its original condition. Permanent concrete barrier will be construction on the bridge with crash cushion treatment. Additionally, the raised median between the Mojave River Br. and Stoddard Wells Rd. signal will be rebuilt to its original layout.</p>
9.0	<p>Question_9.0: If project begins in early February 07, contract time would end approximately Sept 30, 07. This would allow 1 month (Sept) to complete the work underneath the Bridge. Will the start of the project be postponed 30 to 60 days to allow more time at the end of the contract for work underneath the bridge?</p> <p>Interpretation_1: Caltrans would postpone award & beginning of contract time until March 15th 2007 to allow 2.5 months of working time at end of project for work underneath the Bridge.</p> <p>Response: Please see response under Question 11.0.</p>
10.0	<p>Question_10.0: What is the H value of DS 1a & 1b?</p> <p>Response: For Drainage System 1, Units a and b, these are two existing drainage inlets that will be removed during Stage 1 of construction when the median will be cleared for traffic to run on. 1993 As-built for 1a calls out a type GO inlet with D=2.5 feet (assuming depth = 2.5 feet); 1962 As-built for 1b calls out a type G3 inlet with H = 3.67 feet.</p>
11.0	<p>Question 11.0: Ref. Special Provision Section 10-1.01 "Order of Work"; Work beneath the bridge is limited to September 2 to February 29 and work within the BNSF right-of-way is limited to January 1 to September 30. This allows only September 2 to September 30 to complete the work within the BNSF right-of-way (Piers 4 & 5) which is</p>

	<p>not sufficient time to complete the work in this area. Please advise.</p> <p>Response: There are two options available to the contractor for more time to construct piers 4 and 5. Below are the two possible options:</p> <p>Option 1) Construction could take place on the railroad side piers only, beginning August 1st (rather than Sep. 1). If the contractor is interested in working on the railroad side piers only between March 1st and August 1st, this may occur only if it is determined by Caltrans that no nesting birds will be affected.</p> <p>Option 2) If option 1 is exhausted and more time is needed to do the work, an application needs to be submitted to the Railroad for an extension of the Temporary Occupancy Permit (TOP) for another year to include Jan/Feb 2008.</p>
12.0	<p>Question_12.0: Stage 1 description of work includes: ".pre-drill holes for 760 mm CIDH Piles...." This appears to apply to all 36 caissons; however, only 12 of them are in the work zone for Stage 1. Is contractor to pre-drill 12 or all 36 during Stage 1?</p> <p>Response: Pre-drill the 12 pile foundation holes of each stage during night closure work before the 24-hr lane closure of each stage. With the holes pre-drilled the contractor can then do the 24-hr lane closure to excavate, place the pre-constructed rebar cages and do the pouring of fast setting concrete and the other work proposed for that stage. Hence, before Stages 2, 3 and 4 there should be night closures to pre-drill the pile locations and place temporary steel plate covers when you re-open during the day. Below is the order of work of Stage Construction Plans:</p> <p>1-- Night Closures to prepare the median for traffic - Work includes everything specified in Stage 1. Work also includes pre-drilling the 12 holes for the pile foundation of the Seismic Anchor Slab to be poured in Stage 2 and using temporary steel plate covers to open traffic during the day.</p> <p>2--24-hr Closures to construct Seismic Anchor Slabs - work includes everything specified in Stage 2</p> <p>3--Night Closures to predrill holes - Work includes pre-drilling the 12 holes for the pile foundation of the Seismic Anchor Slab to be poured in Stage 3 and using temporary steel plate covers to open traffic during the day.</p> <p>4--24-hr Closures to construct Seismic Anchor Slabs - work includes everything specified in Stage 3</p> <p>5--Night Closures to predrill holes - Work includes pre-drilling the 12 holes for the pile foundation of the Seismic Anchor Slab to be poured in Stage 4 and using temporary steel plate covers to open traffic during the day.</p> <p>6--24-hr Closures to construct Seismic Anchor Slabs - work includes everything specified in Stage 4</p> <p>7--Night Closures to construct median back to a similar pre-condition with concrete barrier - Work includes everything specified in Stage 5.</p>

*TOP Agreement - Executed
Attached.

Betty Bobosik
07/28/2006 10:36 AM
To: "Cathy Benton"
<Cathy.Benton@Staubach.com>Megan.McIntyre@bnsf.com,
cc:
"Betty Bobosik" <betty_bobosik@dot.ca.gov>,
<Megan.McIntyre@bnsf.com>
Subject: RE: Fully Executed TOP Agreement for Mojave River on Rte 18-
06-30734

Thank you Cathy!,
I can now clear and Certify the project for Construction.

Betty Bobosik, Chief
Right of Way Railroad Coordinator
Southern Region
(909) 383-6817
(909) 383-6877 fax

"Cathy Benton" <Cathy.Benton@Staubach.com>



"Cathy Benton"
<Cathy.Benton@Staubach.com>
07/28/2006 08:50 AM
To: "Betty Bobosik" <betty_bobosik@dot.ca.gov>,
<Megan.McIntyre@bnsf.com>
cc:
Subject: RE: Fully Executed TOP Agreement for Mojave River on Rte 18-
06-30734

Betty
Attached please find one (1) fully executed Agreement for your file. A
copy of the executed Agreement must be available upon request at the job
site allowing authorization to do the work. Please contact Roadmaster
at telephone (909) 383-4737, five (5) days in advance of entry and
BEFORE YOU DIG, CALL 1-800-533-2891. If you need additional information
please contact me at (817) 230-2628

Cathy Benton
Sr. Contract Specialist

Staubach Global Services, Inc.-RR
THE STAUBACH COMPANY
3017 Lou Menk Dr., Ste. 100
Fort Worth, Texas 76131-2800
Fax Number 817 306-8265
Direct Line 817 230-2628
cathy.benton@staubach.com
www.staubach.com
<http://www.bnsf.com/tools/realestate/permitslicenses.html>

Be who you are and say what you feel, because those who mind don't
matter and those who matter don't mind.

-----Original Message-----

From: Betty Bobosik [mailto:betty_bobosik@dot.ca.gov]
Sent: Thursday, July 27, 2006 5:59 PM
To: Megan.McIntyre@bnsf.com

TEMPORARY OCCUPANCY PERMIT

THIS AGREEMENT ("Agreement"), made as of the 27th day of July, 2006, ("Effective Date") by and between THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation ("Railroad") and STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, a governmental agency ("Licensee").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the following:

GENERAL

1. Railroad hereby grants Licensee a non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, licenses, easements, liens, or other encumbrances, and upon the terms and conditions set forth below, to temporarily occupy the area of Railroad's property shown on the attached Drawings No.1-39229, attached hereto, marked Exhibit "A", and made a part hereof, situated at or near Victorville, County of San Bernardino, State of California, Line Segment 7600, Mile Post 37.11 ("Premises") for the purposes specified in Section 3 below.
2. Licensee shall not disturb any improvements of Railroad or Railroad's existing lessees, licensees, easement beneficiaries or lien holders, if any, or interfere with the use of such improvements.
3. Licensee shall use Premises exclusively as a site for ingress and egress to existing bridge for seismic retrofit project and storage of materials need at work site. Licensee shall not use the Premises for any other purpose. Licensee shall not use or store hazardous substances, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") or petroleum or oil as defined by applicable Environmental Laws on the Premises.
4. In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises, Railroad shall not be liable to refund Licensee any compensation paid hereunder or for any damage Licensee sustains in connection therewith.
5. Any contractors or subcontractors performing work on the Premises, or entering the Premises on behalf of Licensee, shall be deemed agents of Licensee for purposes of this Agreement.

TERM

6. This Agreement shall commence on January 3, 2007 (the Effective Date) and shall continue until September 30, 2007, subject to prior termination as hereinafter described.

COMPENSATION

7. (a) Licensee shall pay to Railroad, prior to the Effective Date, the sum of the sum of Two Thousand Five Hundred dollars (\$2,500.00) as compensation for the use of the Premises.

- (b) Licensee agrees to reimburse Railroad (within forty-five (45) days after receipt of bills therefor) for all costs and expenses incurred by Railroad in connection with Licensee's use of the Premises, including but not limited to the furnishing of Railroad's Flagman (\$500.00 per eight hour day, \$95 00 per hour thereafter) and any vehicle rental costs incurred. Licensee acknowledges that a twelve-hour day is often required to support an eight-hour work day due to travel, placement, and removal of advance protection signage, safety briefings, and other duties as required.
- (c) All invoices are due forty-five (45) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Railroad within forty-five (45) days after the invoice date, then Licensee shall pay interest on such unpaid sum from forty-five (45) days after its invoice date to the date of payment by Licensee in accordance with the 1999 California Prompt Payment Act.

COMPLIANCE WITH LAWS

- 8. (a) Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants or restrictions ("Legal Requirements") relating to the use of the Premises.
 - (b) Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety training program at the Licensor's Internet Website "<http://www.contractororientation.com>". This training must be completed no more than one year in advance of Licensee's entry on the Premises.
9. Any activities performed by Licensee shall be in accordance with prudent standards of professional environmental practices exercised by the environmental engineering profession

DEFINITION OF COST AND EXPENSE

10. For the purpose of this Agreement, "cost" or "costs" "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.

RIGHT OF RAILROAD TO USE

11. Railroad excepts and reserves the right, to be exercised by Railroad and any other parties who may obtain written permission or authority from Railroad:
- (a) to maintain, renew, use, operate, change, modify and relocate any existing pipe, power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises;
 - (b) to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or

- (c) to use the Premises in any manner as the Railroad in its sole discretion deems appropriate, provided Railroad uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the purpose specified in Section 3 above.

PERMITTEE'S OPERATIONS

- 12. (a) Licensee shall notify Railroad's Roadmaster Michael Edwards at 740 E. Carnegie Dr., San Bernardino, CA 92408, telephone (909) 383-4737, at least five (5) business days prior to entering the Premises. After completion of use of the Premises for the purpose specified in Section 3, Licensee shall notify Railroad in writing that such use has been completed.
- (b) In performing the work described in Section 3, Licensee shall use only public roadways to cross from one side of Railroad's tracks to the other.
- 13. Under no conditions shall Licensee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Premises unless Licensee has obtained prior written approval from Railroad. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Railroad, or the safe operation and activities of Railroad. If ordered to cease using the Premises at any time by Railroad's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Railroad, the parties agree that Railroad has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Railroad to exercise any rights granted in this Section will alter the liability allocation provided by this Agreement.
- 14. Upon completion of Licensee's work on the Premises or upon termination of this Agreement, whichever shall occur first, Licensee shall, at its sole cost and expense:
 - (a) remove all of its equipment from the Premises;
 - (b) report and restore any damage to the Premises arising from, growing out of, or connected with Licensee's use of the Premises;
 - (c) remedy any unsafe conditions on the Premises created or aggravated by Licensee; and
 - (d) leave the Premises in the condition which existed as of the Effective Date of this Agreement
- 15. Licensee's on-site supervision shall retain/maintain a fully-executed copy of this Agreement at all times while on the Premises.

LIABILITY

16. (a) As a major inducement and in consideration of the license and permission herein granted, the Licensee, pursuant to Cal. Gov. Code § 14662.5 (hereinafter the "applicable law"), agrees to indemnify and hold harmless the Railroad from any Loss which arises from, in whole or in part, the work performed under this License, a breach of the License or the failure to observe the health and safety provisions herein, or any activity, omission or negligence arising out of performance or nonperformance of this License regardless of whether contributed to in part by the negligence or fault of Railroad. However, the Licensee shall not indemnify the Railroad when the Loss is proximately caused by the gross negligence or willful misconduct of the Railroad. Upon written notice from Railroad, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this Agreement for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

(b). TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE SHALL AND CAUSE ITS CONTRACTOR TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS RAILROAD AND RAILROAD'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND EXCEPTING COSTS WHOLLY UNRELATED TO LICENSEE'S PRESENCE ON THE PREMISES ("PREEXISTING CONDITIONS" COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (i) THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,
- (ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS AGREEMENT,
- (iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,
- (iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, IN EXCESS OF ANY PREEXISTING CONDITIONS AS DEFINED ABOVE OR

LIABILITY

16. (a) As a major inducement and in consideration of the license and permission herein granted, the Licensee, pursuant to Cal. Gov. Code § 14662.5 (hereinafter the "applicable law"), agrees to indemnify and hold harmless the Railroad from any Loss which arises from, in whole or in part, the work performed under this License, a breach of the License or the failure to observe the health and safety provisions herein, or any activity, omission or negligence arising out of performance or nonperformance of this License regardless of whether contributed to in part by the negligence or fault of Railroad. However, the Licensee shall not indemnify the Railroad when the Loss is proximately caused by the gross negligence or willful misconduct of the Railroad. Upon written notice from Railroad, Licensee agrees to assume the defense of any lawsuit or other proceeding brought against any Indemnitee by any entity, relating to any matter covered by this Agreement for which Licensee has an obligation to assume liability for and/or save and hold harmless any Indemnitee. Licensee shall pay all costs incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments, and amounts paid in satisfaction of judgments.

(b). **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE SHALL AND CAUSE ITS CONTRACTOR TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS RAILROAD AND RAILROAD'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND EXCEPTING COSTS WHOLLY UNRELATED TO LICENSEE'S PRESENCE ON THE PREMISES ("PREEXISTING CONDITIONS" COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):**

(i) THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS ENVIRONMENTAL PROVISIONS,

(ii) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS AGREEMENT,

(iii) LICENSEE'S OCCUPATION AND USE OF THE PREMISES,

(iv) THE ENVIRONMENTAL CONDITION AND STATUS OF THE PREMISES CAUSED BY OR CONTRIBUTED BY LICENSEE, IN EXCESS OF ANY PREEXISTING CONDITIONS AS DEFINED ABOVE OR

(v) ANY ACT OR OMISSION OF LICENSEE OR LICENSEE'S OFFICERS, AGENTS, INVITEES, EMPLOYEES, OR CONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH LICENSEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE AND LIABILITY ATTRIBUTED TO PREEXISTING CONDITIONS, AS DEFINED IN THIS SECTION.

(c) FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, NOTWITHSTANDING THE LIMITATION IN SECTION 16(a), LICENSEE SHALL AND SHALL CAUSE ITS CONTRACTOR TO NOW AND FOREVER WAIVE ANY AND ALL CLAIMS, UNLESS SUCH CLAIMS ARE DIRECTLY RELATED TO A PREEXISTING CONDITION AS DEFINED ABOVE, REGARDLESS WHETHER BASED ON THE STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, THAT RAILROAD IS AN "OWNER", "OPERATOR", "ARRANGER", OR "TRANSPORTER" WITH RESPECT TO THE SITE FOR THE PURPOSES OF CERCLA OR OTHER ENVIRONMENTAL LAWS. LICENSEE WILL INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM ANY AND ALL SUCH CLAIMS IN EXCESS OF PREEXISTING CONDITIONS AS DEFINED ABOVE REGARDLESS OF THE NEGLIGENCE OF THE INDEMNITEES. LICENSEE FURTHER AGREES THAT THE USE OF THE PREMISES AS CONTEMPLATED BY THIS AGREEMENT SHALL NOT IN ANY WAY SUBJECT RAILROAD TO CLAIMS IN EXCESS OF PREEXISTING CONDITIONS AS DEFINED ABOVE THAT RAILROAD IS OTHER THAN A COMMON CARRIER FOR PURPOSES OF ENVIRONMENTAL LAWS AND EXPRESSLY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE INDEMNITEES HARMLESS FOR ANY AND ALL SUCH CLAIMS. IN NO EVENT SHALL RAILROAD BE RESPONSIBLE FOR THE ENVIRONMENTAL CONDITION OF THE PREMISES IN EXCESS OF PREEXISTING CONDITIONS AS DEFINED ABOVE.

(d) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE FURTHER AGREES, AND SHALL CAUSE ITS CONTRACTOR TO AGREE REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE, TO INDEMNIFY, AND HOLD HARMLESS THE INDEMNITEES AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY ANY INDEMNITEE UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF LICENSEE OR ANY OF ITS AGENTS, INVITEES OR CONTRACTORS CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF ANY INDEMNITEE OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR FEDERAL STATUTE.

insurance must reflect waiver of subrogation endorsement. Contractor shall further waive its right of recovery, and its insurers also waive their right of subrogation against Licensor for loss of its owned or leased property or property under its care, custody or control

Contractor's insurance policies through policy endorsement, must include wording which states that the policy shall be primary and non-contributing with respect to any insurance carried by Licensor. The certificate of insurance must reflect that the above wording is included in evidenced policies

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) shall include a severability of interest endorsement and shall name Licensor and Staubach Global Services, Inc. as an additional insured with respect to work performed under this agreement. Severability of interest and naming Licensor and Staubach Global Services, Inc. as additional insureds shall be indicated on the certificate of insurance.

Licensee's Contractor is not allowed to self-insure without the prior written consent of Licensor. If granted by Licensor, any deductible, self-insured retention or other financial responsibility for claims shall be covered directly by Contractor in lieu of insurance. Any and all Licensor liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention, or other financial responsibility for claims.

Prior to commencing the Work, Contractor shall furnish to Licensor an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Licensor in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. Upon request from Licensor, a certified duplicate original of any required policy shall be furnished.

Any insurance policy shall be written by a reputable insurance company acceptable to Licensor or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

Contractor shall WARRANT that this License has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

Not more frequently than once every five years, Licensor may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by Contractor, Contractor shall require that the subcontractor shall provide and maintain insurance coverages as set forth herein, naming Licensor as an additional insured, and shall require that the subcontractor shall release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify Licensor herein.

Failure to provide evidence as required by this section shall entitle, but not require, Licensor to suspend this Agreement immediately, until the Contractor provides said evidence. Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor shall not be deemed to release or diminish the liability of Licensee or Contractor including, without limitation, liability under the indemnity provisions of this License. Damages recoverable by Licensor shall not be limited by the amount of the required insurance coverage.

For purposes of this section, Licensor shall mean "Burlington Northern Santa Fe Corporation", "The Burlington Northern and Santa Fe Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

ENVIRONMENTAL

19. (a) Licensee shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively referred to as the "Environmental Laws"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances in excess of Preexisting Conditions, as defined by Environmental Laws on or about the Premises.
- (b) Licensee shall give Railroad immediate notice to Railroad's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on or from the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.
- (c) In the event that Railroad has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the site which occurred or may occur during the term of this Agreement, Railroad may require Licensee, at Licensee's sole risk and expense, to take timely measures in regard to conditions in excess of Preexisting Conditions, to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Railroad's right-of-way.
- (d) Licensee shall promptly report to Railroad in writing any conditions or activities upon the Premises which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Licensee's reporting to Railroad shall not relieve Licensee of any obligation whatsoever imposed on it by this Agreement. Licensee shall promptly respond to Railroad's request for information regarding said conditions or activities.

ALTERATIONS

20. Licensee may not make any alterations of the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Railroad's prior written consent.

NO WARRANTIES

21. RAILROAD'S AND LICENSEE'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS AGREEMENT AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY RAILROAD OR LICENSEE OTHER THAN THOSE CONTAINED IN THIS AGREEMENT. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES WITH RESPECT TO THE PREMISES, EXPRESS OR IMPLIED, OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

QUIET ENJOYMENT

22. RAILROAD DOES NOT WARRANT ITS TITLE TO THE PROPERTY NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.

DEFAULT

23. Railroad shall have the right to request that any Licensee employee, any Licensee contractor, or any employee of a Licensee contractor who performs any work within Railroad's right of way and which affects Railroad's operations or facilities, be removed from the Project for incompetence, neglect of duty, unsafe conduct or misconduct. In the event Licensee or its contractor elects not to honor such request, Railroad may stop work within its right of way until the matter has been fully resolved to Railroad's satisfaction. The party whose employee has been asked to leave the Project will indemnify the requesting party against any claims arising from such removal.

ASSIGNMENT

24. Neither Licensee, nor the heirs, legal representatives, successors or assigns of Licensee, or any subsequent assignee, shall assign or transfer this Agreement or any interest herein, without the prior written consent and approval of Railroad, which may be withheld in Railroad's sole discretion.

NOTICES

25. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Staubach Global Services - RR, Inc
3017 Lou Menk Drive, Suite 100
Ft. Worth, TX 76131-2800
Attn: Licenses/Permits

with a copy to: The Burlington Northern and Santa Fe Railway Company
2500 Lou Menk Dr. – AOB3
Ft. Worth, TX 76131
Attn: Sr Manager Real Estate

If to Permittee: State of California, Department of Transportation
Betty Bobosik
464 W 4th St., 6th Floor MS "M"
San Bernardino, California 92401-1400

SURVIVAL

26. Neither termination nor expiration will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Premises are restored to its condition as of the Effective Date.

RECORDATION

27. It is understood and agreed that this Agreement shall not be placed on public record

APPLICABLE LAW

28. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the substantive laws of the State of California.

SEVERABILITY

29. To the maximum extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this Agreement.

MISCELLANEOUS

30. In the event that Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.
31. The waiver by Railroad of the breach of any provision herein by Licensee shall in no way impair the right of Railroad to enforce that provision for any subsequent breach thereof.

Staubach Global Services, Inc. is acting as representative for BNSF Railway Company

IN WITNESS WHEREOF, this License has been duly executed, in duplicate, by the parties hereto as of the day and year first above written.

BNSF RAILWAY COMPANY

P.O. Box 961050
Fort Worth, TX 76161-0050

By: Stephen M. Kuzma
Stephen M. Kuzma
Title: Manager – Land Revenue Management

**STATE OF CALIFORNIA, DEPARTMENT OF
TRANSPORTATION**

464 W. 4th St., 6th Floor MS "M"
San Bernardino, California
92401-3400

By: Donald E. Grebe
Donald E. Grebe, Chief
Title: HQ Office of Right of Way
Project Delivery Manager

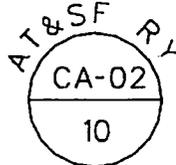
EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY

AND

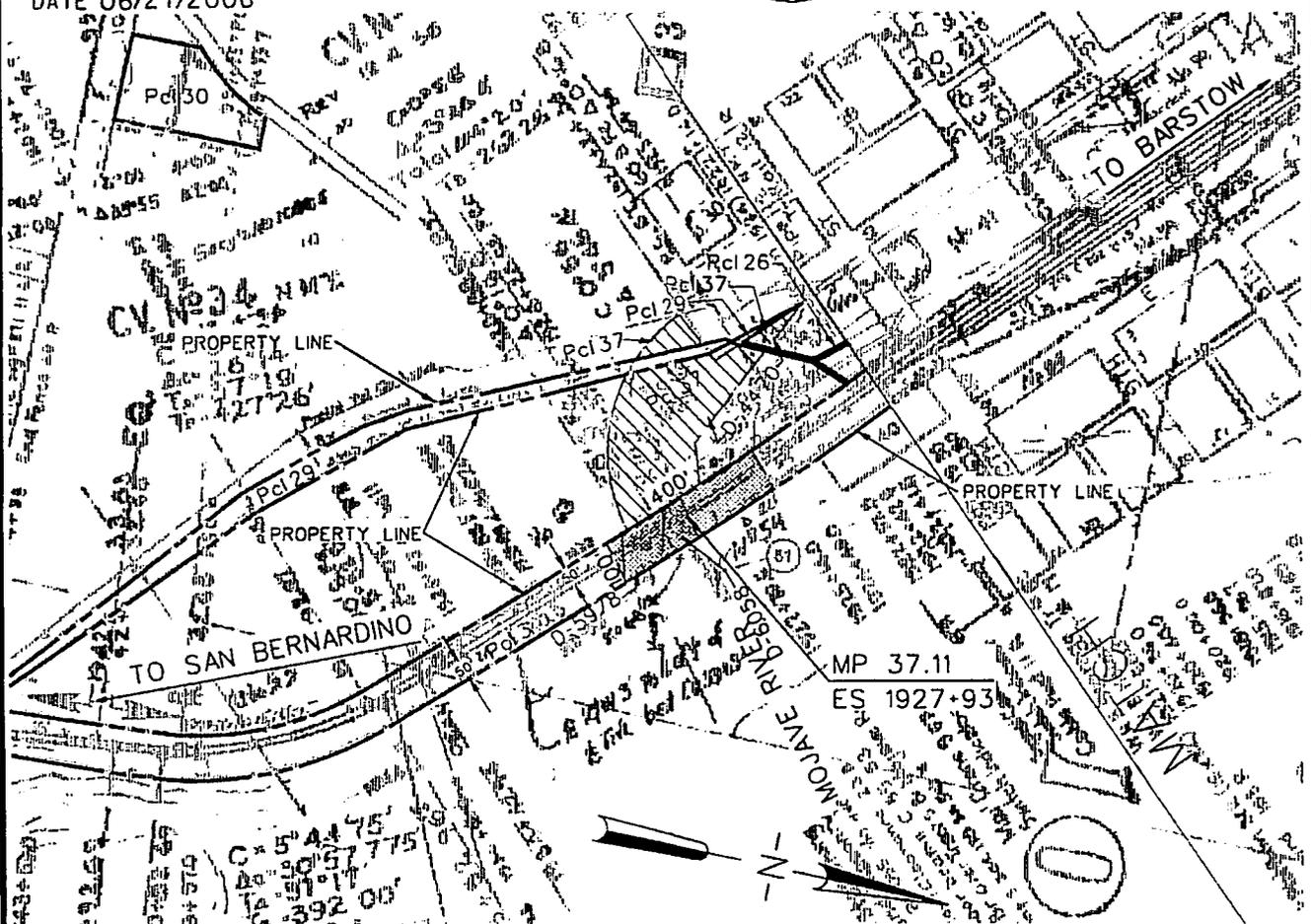
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

SCALE: 1 IN. = 400 FT.
CALIFORNIA DIV.
CAJON SUBDIV. L.S. 7600
DATE 06/27/2006



SECTION: 10
TOWNSHIP: 5N
RANGE: 4W
MERIDIAN: SBM

MAP REF. 140409



DESCRIPTION:

A PARCEL OF LAND SHOWN SHADED TO BE USED FOR SEISMIC RETROFIT OF MOJAVE RIVER BRIDGE.

NOTE:

ANY WORK PERFORMED CLOSER THAN 25' FROM TRACKS REQUIRES BNSF APPROVAL.

NEAR VICTORVILLE
COUNTY OF SAN BERNARDINO

STATE OF CA

BCC

STATE OF CALIFORNIA
**DEPARTMENT OF
TRANSPORTATION**

SHEET 1 OF 3
SBD 18 95.4
CO. ROUTE P.M.

WHITE-COMPANY
GOLDEN ROD-AGREEMENTS
YELLOW-CONTROLLERS
GREEN-ACCOUNTING
BLUE- CONSTRUCTION
PINK- RIGHT OF WAY

SOURCE		CHARGE		EXP AUTH		SPECIAL DESIGNATION				
DIST.	UNIT	DIST.	UNIT	GEN. LED	SUB-ACCT	PRE FIX	SUB-JOB NO.- RW PARCEL NO.			
				WORK ORDER NO.			LOCATION BRIDGE NO. ETC.			
08	406	08	406 ⁵¹⁵		483304		6042	\$172,426.20	06 P	CC483304

ITEM 2660 CHAPTER 310 statutes 1995 FISCAL YEAR 2005/2006
802-0653

SERVICE CONTRACT NO. 08R125
THIS NUMBER IS TO BE PLACED ON ALL BILLS
Sacramento, CALIFORNIA
FEBRUARY 17, 2006

I HEREBY CERTIFY UPON MY OWN PERSONAL KNOWLEDGE THAT BUDGETED FUNDS ARE AVAILABLE FOR THE PERIOD AND PURPOSE OF THE EXPENDITURE STATED ABOVE.

SIGNATURE OF ACCOUNTING OFFICER Clifford C Carter DATE 07/13/06

RAILROAD BNSF RAILWAY COMPANY PHONE (909) 386-4472
ADDRESS 740 E. CARNEGIE DRIVE, SAN BERNARDINO, CA 92408-3571

The Railroad hereby agrees to do the work hereinafter set forth for the Department of Transportation in accordance with the provisions of this form and of the attached sheets if any and the Railroad agrees to receive and accept as full compensation therefore the payment provided herein

For work to be completed by BNSF which involves installation and removal of temporary crossing, flagging and inspection required for protection of BNSF Company facilities and operations, at Mojave River Bridge No. 54-0307, during Seismic Retrofit of Bridge No. 54-0307, on Rte 18, near cities of Apple Valley and Victorville, in San Bernardino County.

Total Estimate: \$172,426.20
See Page 3 of 3

It is expressly agreed that all persons engaged on this work are employees of the Railroad or its contractor, and that none are employees of the Department of Transportation of the State of California.

Further, Department of Transportation hereby agrees to the terms as above set forth, and hereby agrees to pay the same; provided, that by mutual consent this agreement may be modified or terminated at any time.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hand the year and date first above written.

DEPARTMENT OF TRANSPORTATION

ORIGINAL SIGNED BY

Approval Recommended - Agreements Engineer

[Signature]
Approved as to Form - Attorney

ORIGINAL SIGNED BY

DONALD E. GREBE, Chief
Office of Project Delivery

BNSF RAILWAY COMPANY

RAILROAD [Signature]

By Megan T. Melntyre

Manager Public Projects
TITLE OR POSITION

Mail three (3) copies of invoice to:
Please Reference: 08R125
DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY AND LAND SURVEYS, MS 37
P.O. Box 942873
Sacramento, CA 94273-0001

State agrees to reimburse BNSF for actual costs and expenses reasonably and necessarily incurred by BNSF in the performance of these items of work.

The estimated amount of cost and expense to be incurred by BNSF is summarized in estimate attached and made a part thereof. Any additional work incidental to that shown on attached estimate, but not specifically detailed thereon, may be included as part of this contract by written request or approval of State.

All work to be performed under this Service Contract shall be by BNSF employees working under Railroad Labor Agreements and shall be done on a force account basis, the cost hereof to be paid to BNSF by State in the manner herein set forth.

The parties hereto agree the BNSF is a qualified self-insurer.

Railroad Relations and Insurance Provisions required in connection with this project are attached herein as Exhibit C, and shall be included in the Contract Special Provisions for State's Contract SVC No. 08R125.

All applicable portions of Federal-Aid Policy Guide, Title 23, Code of Federal Regulations, Parts 646A, 646B and 140I are by reference incorporated herein and made a part hereof.

The records and accounts of the BNSF relating to the project shall be open for inspection and audit by State and/or Federal Government for a period of three years from the date final payment is received by the BNSF.

Under Federal Regulations there are no ascertainable net benefits to the BNSF and there shall be no required BNSF sharing of the costs.

All work under this contract is estimated to be completed by **June 30, 2008**, unless an extension of time is approved by the State in writing.

**BNSF RAILWAY COMPANY
ESTIMATE**

Location: Route 18, Mojave River Bridge PM 95.35
08-SBD-Cities of Apple Valley and Victorville.

Project: Seismic Retrofit Bridge # 54-0307

Project Duration: 15 days flagging required.

Estimate:

Work to be completed by Railroad Forces. Estimate attached was provided by BNSF Railroad.

Temporary crossing to be constructed and later removed	\$137,251.10
Work to be completed by Railroad	
Flagging @ \$800.00 per day x 15 days	\$ 12,000.00
Inspection @ \$500.00 per day x 15 days	\$ 7,500.00
10% Contingency	\$ 15,675.10

Total	<hr/> \$172,426.20
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Note: This is an estimate only. Railroad shall bill on an actual cost basis.

EXHIBIT "C"

SECTION 13. RAILROAD RELATIONS AND INSURANCE REQUIREMENTS

13-1.01 GENERAL

The term "Railroad" shall mean the BNSF Railway Company.

It is expected that the Railroad will cooperate with the Contractor to the end that the work may be handled in an efficient manner. However, except for the additional compensation provided for hereinafter for delays in completion of specific unit of work to be performed by the Railroad, and except as provided in Public Contracts Code Section 7102, the Contractor shall have no claim for damages, extension of time, or extra compensation in the event his work is held up by work performed by the Railroad.

The Contractor must understand the Contractor's right to enter Railroad's property is subject to the absolute right of Railroad to cause the Contractor's work on Railroad's property to cease if, in the opinion of Railroad, Contractor's activities create a hazard to Railroad's property, employees, and operations.

The Contractor shall sign and submit to the Railroad the Contractor's Endorsement, in the form attached hereto.

13-1.02 RAILROAD REQUIREMENTS

The Contractor shall notify Ms Megan Mc Intyre, Manager Industry and Public Projects, 740 E. Carnegie Dr., San Bernardino, CA 92408-3571, 30 working days before performing any work on, or adjacent to the property or tracks of the Railroad.

The Contractor shall cooperate with the Railroad where work is over or under the tracks, or within the limits of Railroad property, to expedite the work and avoid interference with the operation of railroad equipment.

The Contractor shall comply with the rules and regulations of Railroad or the instructions of its representatives in relation to protecting the tracks and property of Railroad and the traffic moving on such tracks, as well as the wires, signals and other property of Railroad, its tenants or licensees, at and in the vicinity of the work during the period of construction. The responsibility of the Contractor for safe conduct and adequate policing and supervision of its work at the job site shall not be lessened or otherwise affected by the presence at the work site of Railroad representatives, or by the Contractor's compliance with any requests or recommendations made by Railroad representatives.

The Contractor shall perform work to not endanger or interfere with the safe operation of the tracks and property of Railroad and traffic moving on such tracks, as well as wires, signals and other property of Railroad, its tenants or licensees, at or in the vicinity of the work.

The Contractor shall take protective measures to keep railroad facilities, including track ballast, free of sand or debris resulting from his operations. Damage to railroad facilities resulting from Contractor's operations will be repaired or replaced by Railroad and the cost of such repairs or replacement shall be deducted from the Contractor's progress and final pay estimates.

The Contractor shall contact the Railroad's "Call Before You Dig" at least 48 hours prior to commencing work, at 1-800-336-9193 (a 24 hour number) to determine location of fiber optics. If a telecommunications system is buried anywhere on or near railroad property, the Contractor will coordinate with the Railroad and the Telecommunication Company(ies) to arrange for relocation or other protection of the system prior to beginning any work on or near Railroad Property.

The Contractor shall not pile or store any materials nor park any equipment closer than 7.62-meter (25'-0") to the centerline of the nearest track, unless directed by Railroad's representative.

The Contractor shall also abide by the following temporary clearances during the course of construction:

3.66-meter (12'-0") horizontally from centerline of track

6.40-meter (21'-6") vertically above top of rail, with CPUC Approval.

The temporary vertical construction clearance above provided will not be permitted until authorized by the Public Utilities Commission. It is anticipated that authorization will be received not later than 15 days after the approval of the contract by the Attorney General. In the event authorization is not received by the time specified, and, if in the opinion of the Engineer, the Contractor's operations are delayed or interfered with by reason of authorization not being received by the said time, State will compensate the Contractor for such delay to the extent provided in Section 8-1.09. "Right of Way Delays," of the Standard Specifications and not otherwise.

Walkways with railing shall be constructed by Contractor over open excavation areas when in close proximity of tracks, and railings shall not be closer than 2.60-meter (8'-6") horizontally from centerline of the nearest track, if tangent, or 2.90-meter (9'-6") if curved.

Infringement on the above temporary construction clearances by the Contractor's operations shall be submitted to the Railroad by the Engineer, and shall not be undertaken until approved by the Railroad, and until the Engineer has obtained any necessary authorization from any governmental body or bodies having jurisdiction thereover. No extension of time or extra compensation will be allowed in the event the Contractor's work is delayed pending Railroad approval and governmental authorization.

When the temporary vertical clearance is less than 6.86-meter (22'-6") above top of rail. Railroad shall have the option of installing tell-tales or other protective devices Railroad deems necessary for protection of Railroad trainmen or rail traffic.

Four sets of plans, in U.S. Customary Units, 279mm x 432mm (11" x 17") format, and two sets of calculations showing details of construction affecting Railroad's tracks and property not included in the contract plans, including but not limited to shoring and falsework, shall be submitted to the Engineer for review prior to submittal to Railroad for final approval. Falsework shall comply with railroad guidelines. Demolition of existing structures shall comply with Railroad guidelines. Shoring shall be designed in accordance with Railroad's shoring requirement of drawing No. 106613 and guidelines for shoring and falsework, latest edition, issued by Railroad's Office of Chief Engineer. Shoring and falsework plans and calculations shall be prepared and signed by a professional civil engineer registered in the State of California. This work shall not be undertaken until such time as the Railroad has given such approval. Review by Railroad may take up to 6 weeks after receipt of all necessary information.

The Contractor shall notify the Engineer in writing, at least 25 calendar days but not more than 40 days in advance of the starting date of installing temporary work with less than permanent clearance at each structure site. The Contractor shall not be permitted to proceed with work across railroad tracks until this requirement has been met. No extension of time or extra compensation will be allowed if the Contractor's work is delayed due to failure to comply with the requirements in this paragraph.

Blasting will be permitted only when approved by the Railroad.

The Contractor shall, upon completion of the work covered by this contract to be performed by the Contractor upon the premises or over or beneath the tracks of Railroad, promptly remove from the premises of Railroad, Contractor's tools, implements and other materials, whether brought upon said premises by said Contractor or any subcontractor, employee or agent of said Contractor, and cause said premises to be left in a clean and presentable condition.

Under-track pipeline installations shall be constructed in accordance with Railroad's current standards which may be obtained from Railroad. The general guidelines are as follows:

Edges of jacking or boring pit excavations shall be a minimum of 6.10-meter (20 feet) from the centerline of the nearest track.

If the pipe to be installed under the track is 100 mm (4 inches) in diameter or less, the top of the pipe shall be at least 1.067-meter (42 inches) below base of rail.

If the pipe diameter is greater than 100 mm (4 inches) in diameter, it shall be encased and the top of the steel pipe casing shall be at least 1.60-meter (66 inches) below base of rail.

Installation of pipe or conduit under Railroad's tracks shall be done by dry bore and jack method.

Hydraulic jacking or boring will not be permitted.

Contractor Roadway Worker on Track Safety Program and Safety Action Plan

Each Contractor that will perform work within 15' of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the mob site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan as provided for on the web site WWW.contractororientation.com, which will be made available to Railway prior to commencement of any work on the Railway Property. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Materials Safety Datasheets (MSDS) at the mob site.

13-1.03 PROTECTION OF RAILROAD FACILITIES

Upon advance notification of not less than 10 working days by the Contractor, Railroad representatives, conductors, flagmen or watchmen will be provided by Railroad to protect its facilities, property and movements of its trains or engines. Notice shall be made to Railway Roadmaster at (760) 255-7639. At the time of notification, the Contractor shall provide Railroad with a schedule of dates that flagging services will be needed, as well as times, if outside normal working hours. Subsequent deviation from the schedule shall require 10 working days advance notice from the first affected date. The Railroad will furnish such personnel or other protective devices:

- (a) When any part of any equipment is standing or being operated within 25 feet, measured horizontally, from centerline of any track on which trains may operate, or when any erection or construction activities are in progress within such limits, regardless of elevation above or below track .
- (b) For any excavation below elevation of track subgrade if, in the opinion of Railroad's representative, track or other Railroad facilities may be subject to settlement or movement.
- (c) During any clearing, grubbing, grading or blasting in proximity to Railroad which, in the opinion of Railroad's representative, may endanger Railroad facilities or operations.
- (d) During any of Contractor's operations when, in the opinion of Railroad's representatives, Railroad facilities, including, but not limited to, tracks, buildings, signals, wire lines or pipe lines, may be endangered.

The cost of flagging and inspection provided by Railroad during the period of constructing that portion of the project located on or near Railroad property, as deemed necessary for the protection of Railroad's facilities and trains, will be borne by the State for a period of 15 working days beginning on the date work commences on or near property of Railroad. The Contractor shall pay to the State liquidated damages in the sum of \$500 per day for each day in excess of the above 15 working days the Contractor works on or near Railroad property, and which requires flagging protection of Railroad's facilities and trains.

13-1.04 WORK BY RAILROAD

The following work by Railroad will be performed by Railroad forces and is not a part of the work under this contract.

- (a) The Railroad will perform preliminary engineering inspection and flagging as specified in Section 13-1.03, "Protection of Railroad Facilities," of these special provisions.

- (b) The Railroad will construct, and later remove, a Temporary Crossing, as shown on the project plans. Cost Estimate for said crossing has been provided by BNSF Railway, and is attached as an exhibit to the Service Contract 08R125. .]

13-1.05 DELAYS DUE TO WORK BY RAILROAD

No delay due to work by the Railroad is anticipated.

If delays due to work by the Railroad occur, and the Contractor sustains loss which, in the opinion of the Engineer, could not have been avoided by the judicious handling of forces, equipment and plant, the amount of said loss shall be determined as provided in Section 8-1.09, "Right of Way Delays," of the Standard Specifications.

If a delay due to work by Railroad occurs, an extension of time determined pursuant to the provisions in Section 8-1.07, "Liquidated Damages," of the Standard Specifications will be granted.

No Construction activities with respect to the Project and/or future normal or routine maintenance Activity pertaining to said Structure, and which may be located in close proximity to BNSF's tracks, shall be permitted during the Fourth Quarter of each Calendar Year. Subject to prior notification to BNSF's NOC in Fort Worth, Texas, telephone number (817) 234-2334, emergency maintenance work will be permitted. It is mutually understood that trains cannot be subjected to delay during this time period.

13-1.06 LEGAL RELATIONS

The provisions of Section 13-1, "Relations with Railroad Company," and the provisions of Section 13-2, "Railroad Protective Insurance," of these special provisions shall inure directly to the benefit of Railroad.

13-2 RAILROAD PROTECTIVE INSURANCE

In addition to any other form of insurance or bonds required under the terms of the contract and specifications, the Contractor will be required to carry insurance of the kinds and in the amounts hereinafter specified.

Such insurance shall be approved by the Railroad before any work is performed on Railroad's property and shall be carried until all work required to be performed on or adjacent to the Railroad's property under the terms of the contract is satisfactorily completed as determined by the Engineer, and thereafter until all tools, equipment and materials have been removed from Railroad's property and such property is left in a clean and presentable condition.

The State of California is Self-Insured, except for RPLI Insurance, which will be purchased either by the State from the R/R, or the Contractor will provide.

Full compensation for all premiums which the Contractor is required to pay on all the insurance described hereinafter shall be considered as included in the prices paid for the various items of work to be performed under the contract, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

The following insurance coverage will be required:

- (a) **General Liability** insurance providing bodily injury including death, personal injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. This insurance shall contain broad form contractual liability with a separate general aggregate for the project (ISO Form CG 25 03 or equivalent). Exclusions for explosion, collapse and underground hazard shall be removed. Coverage purchased on a claims made form shall provide for at least a two (2) year extended reporting or discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.

(b) **Automobile Liability** insurance providing bodily injury and property damage coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the general public liability insurance.

(c) **Workers' Compensation** insurance covering Contractor's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement, and Employers' Liability. If such insurance will not cover the liability of Contractor in states that require participation in state workers' compensation fund, Contractor shall comply with the laws of such states. If Contractor is self-insured, evidence of state approval must be provided.

(d) **Railroad Protective Liability** insurance naming the Railroad as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. The policy shall be broad form coverage for "Physical Damage to Property" (ISO Form CG 00 35 or equivalent) and include pollution arising out of fuels and lubricants brought to the job site (ISO Form CG 28 31 or equivalent). A binder of insurance for Railroad Protective Liability must be submitted to the Railroad and the original policy or a certified duplicate original policy must be forwarded to the Railroad when available.

Contractor and its insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against Railroad. Contractor and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Contractor's insurance shall be primary with respect to any insurance carried by Railroad. The policy(ies) required under (a) and (b) above shall provide severability of interests and shall name Railroad as an additional insured.

Prior to commencing the Work, Contractor shall furnish to Railroad certificate(s) of insurance evidencing the required coverage and endorsements and upon request, a certified duplicate original of any required policy. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any material alteration including any change in the retroactive date in any "claims-made" policies or substantial reduction of aggregate limits, if such limits apply, or any cancellation at least thirty (30) days prior thereto.

The insurance policy(ies) shall be written by a reputable insurance company(ies) acceptable to Railroad or with a current Best's Insurance Guide Rating of B and Class VII or better, and authorized to do business in the state(s) in which the Work is located.

Contractor warrants that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who has been instructed by Contractor to procure the insurance coverage required by this Agreement.

If Contractor fails to procure and maintain insurance as required, Railroad may elect to do so at the cost of Contractor.

The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

CONTRACTOR'S ENDORSEMENT

A. As a condition to entering upon Railroad's right-of-way to perform Work pursuant to this agreement, Licensee's contractor, _____ whose address is _____ (hereinafter "Contractor"), agrees to comply with and be bound by all the terms and provisions of this agreement relating to the Work to be performed and the insurance requirements set forth in Exhibit A-1. Contractor further acknowledges and agrees that the reference to Cal. Gov. Code §14662.5 in Sections 5.b) and 8.b) of Exhibit A to this agreement does not apply to Contractor and in no way limits the indemnities set forth in those provisions, to which Contractor agrees to be bound.

B. Before the Contractor commences any Work, the Contractor will provide the Railroad with (i) a binder of insurance for the Railroad Protective Liability Insurance described in paragraph (d) of Exhibit A-1, hereto attached, and the original policy, or a certified duplicate original policy when available, and (ii) a certificate issued by its insurance carrier providing the other insurance coverage required pursuant to Exhibit A-1 in a policy or policies which contains the following type endorsement:

BNSF RAILWAY COMPANY is named as an additional insured with respect to all liabilities arising out of Insured's performance of Work on behalf of the Licensee.

C. All insurance correspondence, binders or originals shall be directed to:

Folder No. _____
BNSF RAILWAY COMPANY
P.O. Box 12010 BN
Hemet, California 92546-8010
Fax 909 766-2299

D. Please note that fiber optic cable may be buried on Railroad's property. Prior to commencing any work, Contractor agrees to contact Railroad's Telecommunications Operation Center at 1-800-336-9193 to determine if any fiber optic cable is located on Railroad's property on or near the location where the work is to be performed. If there is, Contractor must comply with the terms and conditions of Section 5 of Exhibit A before commencing any work on Railroad's property.

E. Contractor agrees to also contact John Shurson, Assistant Director Public Projects, Railroad's Manager-Track Maintenance at (909) 386-4470 at least 48 hours prior to working on Railroad's property in order for Railroad to coordinate the Contractor's work with Railroad's operations and to make arrangements for flagging protection (if applicable).

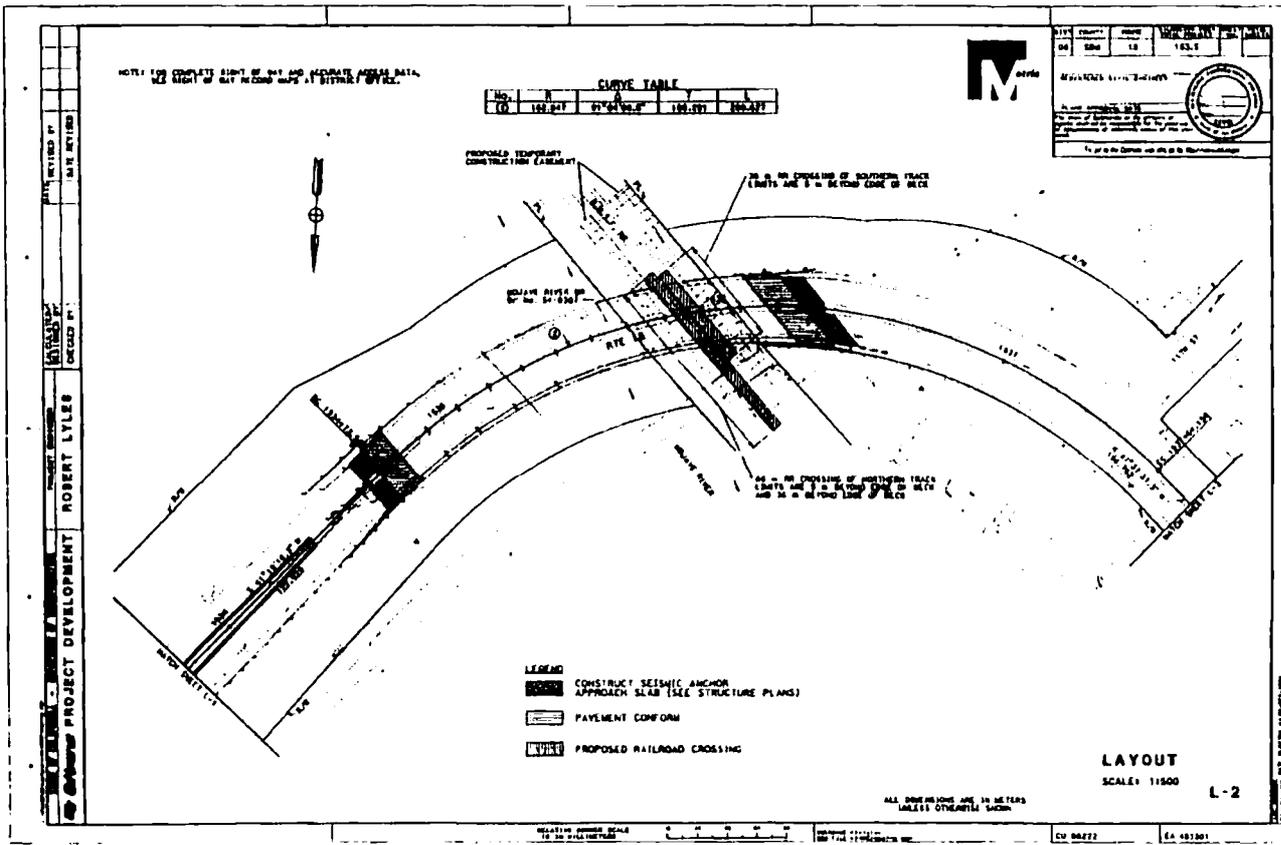
This endorsement shall be completed and directed to:

Mr. John Shurson
Assistant Director Public Projects
740 E. Carnegie Dr.
San Bernardino, CA 92408-3571

CONTRACTOR (print name on above line)

By: _____

Title: _____



PROJECT DEVELOPMENT
 ROBERT LYLES
 CHECKED BY:

DATE	NO.	BY	REVISION
10/10/10	10	EA	101301

REGISTERED PROFESSIONAL ENGINEER

STATE OF CALIFORNIA

EA 101301