STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

CONTRACT CHANGE ORDER

Change Requested by: Engineer

CCO: 4	Suppl. No. 0	Contract No. 04 - 0120F4	Road SF-80-13.2/13.9	FED. AID LOC.:

To: **AMERICAN BRIDGE/FLUOR ENTERPRISES INC A JOINT VENT**

You are directed to make the following changes from the plans and specifications or do the following described work not included in the plans and specifications for this contract. ***NOTE: This change order is not effective until approved by the Engineer.***

Description of work to be done, estimate of quantities and prices to be paid. (Segregate between additional work at contract price, agreed price and force account.) Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time. This last percentage shown is the net accumulated increase or decrease from the original quantity in the Engineer's Estimate.

Extra Work at Force Account:

1. Revise Section 5-1.12, "DISPUTES REVIEW BOARD", subsection "COMPENSATION" of the Special Provisions with the paragraph shown on Sheet 2 of this change order.

2. Revise Section 5-1.12, "DISPUTES REVIEW BOARD", of the Special Provisions to include the informal dispute process as shown on Sheet 3 of this change order.

3. Revise Section 5-1.12, "DISPUTES REVIEW BOARD", subsection "DISPUTE REVIEW BOARD AGREEMENT", of the Special Provisions with the Agreement shown on Sheets 4 through 11 of this change order.

In accordance with Section 5-1.12, "Disputes Review Board" of the Special Provisions, incorporate the use of a Disputes Review Board. The utilization of the Disputes Review Board will be performed in accordance with the specifications and guidelines as described in the Special Provisions and in accordance with the Disputes Review Board Agreement revised in this change order.

The Disputes Review Board Agreement, Form CEM-6202 (modified) shall be completed by the Contractor, the State and the DRB members. The State and the Contractor shall bear the costs and expenses of the DRB equally as provided in the Disputes Review Board Agreement.

Reimbursement to the Contractor for payment of the States' share in the costs of the Disputes Review Board, shall be paid in accordance with Section 5-1.24, "Force Account Payment" of the Special Provisions, except there shall be no markups applied to expenses connected with the DRB, and no markups will be added to the Contractor's payment.

Estimated cost of Extra Work at Force Account $300,000.00

Estimated Cost: **Increase** ☑ **Decrease** ☐ **$300,000.00**

By reason of this order the time of completion will be adjusted as follows: 0 days

Submitted by

Signature	Resident Engineer	Date
Gary Pursell	Gary Pursell, P.E., Sup.T.E.	4/25/07

Approval Recommended by

Signature	Supervising Transportation Engineer	Date
Gary Pursell	Gary Pursell, P.E., Sup. TE	4/25/07

Engineer Approval by

Signature	Supervising Transportation Engineer	Date
P E Siegenthaler	Peter Siegenthaler, P.E., Prin. BE	4/30/07

We the undersigned contractor, have given careful consideration to the change proposed and agree, if this proposal is approved, that we will provide all equipment, furnish the materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefor the prices shown above.

NOTE: If you, the contractor, do not sign acceptance of this order, your attention is directed to the requirements of the specifications as to proceeding with the ordered work and filing a written protest within the time therein specified.

Contractor Acceptance by

Signature	(Print name and title)	Date
Michael D. Flowers	Michael D. Flowers Project Director	4-30-07

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

HC-5 (Rev. 5/93)

CONTRACT CHANGE ORDER NO. 4 SUPPL. NO. ---

ROAD 04-SF-80-13.2, 13.9 SHEET 2 OF 11 SHEETS

FEDERAL NO.(S) _____ CONTRACT NO.: 04-0120F4

To American Bridge / Fluor Enterprises Inc., A Joint Venture,
Contractor

You are hereby directed to make herein described changes from the plans and specifications or do the following described work not included in the plans and specifications of the contract.

NOTE: This change order is not effective until approved by The Chief Engineer.

Description of work to be done, estimate of quantities, and prices to be paid. Segregated between additional work at contract price and force account. Unless otherwise stated, rates for rental equipment cover only such time as equipment is actually used and no allowance will be made for idle time.

CHANGE REQUESTED BY THE **ENGINEER**

The last percentage shown is the net accumulated increase or decrease from the original quantity in the Engineer's Estimate.

1. Section 5-1.12, "DISPUTES REVIEW BOARD", subsection "COMPENSATION" is revised to read:

COMPENSATION

The STATE and the CONTRACTOR shall bear the costs and expenses of the DRB equally. Each of the State and Contractor DRB appointees shall be compensated at the rate of $1800 per day of DRB meeting. The third DRB member shall be compensated at the rate of $2400 per day of DRB meeting. Beginning January 1, 2010 the State and Contractor DRB appointees shall be compensated at an agreed rate of $2000 per day of DRB meeting. The third DRB member shall be compensated at an agreed rate of $2600 per day of DRB meeting. The agreed rates shall be considered full compensation for on-site time, travel expenses, transportation, lodging, time for travel and incidentals for each day, or portion thereof, that the DRB member is at an authorized DRB meeting. Authorized DRB meetings may include visits to production facilities in other states or nations. No additional compensation will be made for time spent by DRB members in review and research activities outside the official DRB meetings unless that time has been specifically agreed to in advance by the STATE and CONTRACTOR. Time away from the project that has been specifically agreed to in advance by the parties will be compensated at an agreed rate of $180 per hour for each of the State and Contractor DRB appointees and $250 per hour for the third DRB member. Beginning January 1, 2010, time away from the project, which has been specifically agreed to in advance by the parties, will be compensated at an agreed rate of $200 per hour for each of the State and Contractor DRB appointees and $270 per hour for the third DRB member. The agreed hourly rates shall include all incidentals including expenses for telephone, fax, and computer services. Members serving on more than one DRB involving the State, regardless of the number of meetings per day, shall not be paid more than the all inclusive rate per day or rate per hour for an individual project. The STATE will provide, at no cost to the CONTRACTOR, administrative services such as conference facilities and secretarial services to the DRB.
These special provisions and the Dispute Review Board Agreement state the provisions for compensation and expenses of the DRB. The Contractor shall make direct payments to each DRB member for their participation in authorized meetings and approved hourly rate charges from invoices submitted by each DRB member. The State will reimburse the Contractor for the State's share of the costs. There will be no markups applied to expenses connected with the DRB, either by the DRB members or by the Contractor when requesting payment of the State's share of DRB expenses. Regardless of the DRB recommendation, neither party shall be entitled to reimbursement of DRB costs from the other party.

2. Under Section 5-1.12, "DISPUTES REVIEW BOARD", insert the following "INFORMAL DISPUTE MEETING" section:

INFORMAL DISPUTE MEETING

An informal dispute meeting shall be convened, only if, the parties and the DRB agree that this dispute resolution process is appropriate to settle the dispute.
The following procedure shall be used for the informal dispute meeting:

a. The parties shall furnish the DRB with one copy of pertinent documents requested by the DRB that are or may become necessary for the DRB to perform its function. The party furnishing documents shall furnish such documents to the other party at the same time the document is provided to the DRB.
b. After the dispute meeting has concluded; the DRB members shall deliberate in private the same day, until a response to the parties is reached or as otherwise agreed to by the parties.
c. The DRB then verbally delivers its recommendation with findings, including minority opinion, if any, to the parties.
d. After the recommendation is presented, the parties may ask for clarifications.
e. Occasionally the DRB on complex issues may be unable to formulate a recommendation based on the information given at a dispute meeting. However, the DRB may provide the parties with advice on strengths and weaknesses of their prospective positions, in the hope of the parties reaching settlement.
f. If the parties are able to settle their dispute with the aid of the DRB's opinion, the STATE and CONTRACTOR shall promptly accept and implement the settlement of the parties.
g. The DRB will not be bound by its oral recommendation in the event that a dispute is later heard by the DRB in a traditional dispute meeting.

Unless the dispute is settled, use of the informal dispute meeting does not relieve the parties of their responsibilities under Section 5-1.12, "Dispute Review Board," of the Special Provisions or Subsection II.D, "DRB CONSIDERATION AND HANDLING OF DISPUTES" of the Dispute Review Board Agreement. There will be no extension of time allowed for the process to permit the use of the informal dispute meeting, unless otherwise agreed to by the parties.

DISPUTE REVIEW BOARD AGREEMENT

SFOBB Self-Anchored Suspension (SAS) Structure
(Contract Identification)

Contract No. 04-0120F4

THIS DISPUTE REVIEW BOARD AGREEMENT, hereinafter called "AGREEMENT", made and entered into this _____ day of _____, 2007, between the State of California, acting through the California Department of Transportation and the Director of Transportation, hereinafter called the "STATE," _____ hereinafter called the "CONTRACTOR," and the Dispute Review Board, hereinafter called the "DRB" consisting of the following members:

_____,
(Contractor Appointee)

_____,
(State Appointee)

and _____
(Third Person)

WITNESSETH, that

WHEREAS, the STATE and the CONTRACTOR, hereinafter called the "parties," are now engaged in the construction of the State Highway project referenced above; and

WHEREAS, the special provisions for the above referenced contract provides for the establishment and operation of the DRB to assist in resolving disputes; and

WHEREAS, the DRB is composed of three members, one selected by the STATE, one selected by the CONTRACTOR, and the third member selected by the other two members and approved by the parties;

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the STATE, the CONTRACTOR, and the DRB members hereto agree as follows:

SECTION I DESCRIPTION OF WORK

To assist in the resolution of disputes between the parties, the contract provides for the establishment and the operation of the DRB. The intent of the DRB is to fairly and impartially consider disputes placed before it and provide written recommendations for resolution of these disputes to both parties. The members of this DRB shall perform the services necessary to participate in the DRB's actions as designated in Section II, Scope of Work.

SECTION II SCOPE OF WORK

The scope of work of the DRB includes, but is not limited to, the following:

A. OBJECTIVE

The principal objective of the DRB is to assist in the timely resolution of disputes between the parties arising from performance of this contract. It is not intended for either party to default on their normal

responsibility to amicably and fairly settle their differences by indiscriminately assigning them to the DRB. It is intended that the mere existence of the DRB will encourage the parties to resolve disputes without resorting to this review procedure. But when a dispute that is serious enough to warrant the DRB's review does develop, the process for prompt and efficient action will be in place.

B. PROCEDURES

The DRB shall render written reports on disputes between the parties arising from the construction contract. Prior to consideration of a dispute, the DRB shall, with the input and concurrence of the parties, establish written operating procedures and guidelines that will govern the conduct of its business and reporting procedures in conformance with the requirements of the contract and the terms of this AGREEMENT. DRB recommendations, resulting from its consideration of a dispute, shall be furnished in writing to both parties. The recommendations shall be based on facts and circumstances involved in the dispute, pertinent contract provisions and applicable laws and regulations. The DRB shall make recommendations on the merit of the dispute, and if appropriate, recommend guidelines for determining compensation. If the parties cannot agree on compensation within 60 days of the acceptance by both parties of the DRB's recommendation, either party may request the DRB to make a recommendation regarding compensation.

The DRB shall refrain from giving advice or consulting services to anyone involved in the contract. The individual members shall act in a completely independent manner and while serving as members of the DRB shall have no consulting business connections with either party or its principals or attorneys or other affiliates (subcontractors, suppliers, etc.) who have a beneficial interest in the contract.

During scheduled meetings of the DRB as well as during dispute meetings, DRB members shall refrain from expressing opinions on the merits of statements on matters under dispute or potential dispute. Opinions of DRB members expressed in private sessions shall be kept strictly confidential. Individual DRB members shall not meet with, or discuss contract issues with individual parties. Other discussions regarding the project between the DRB members and the parties shall be in the presence of all three members and both parties. Individual DRB members shall not undertake independent investigations of any kind pertaining to disputes or potential disputes, except with the knowledge of both parties and as expressly directed by the DRB Chairperson

C. CONSTRUCTION SITE VISITS, PROGRESS MEETINGS AND FIELD INSPECTIONS

The DRB members shall visit the project site and meet with representatives of the parties to keep abreast of construction activities and to develop familiarity with the work in progress. Scheduled progress meetings shall be held at or near the project site. The DRB shall meet at least once at the start of the project, and at least once every 4 months thereafter. The frequency, exact time, and duration of additional site visits and progress meetings shall be as recommended by the DRB and approved by the parties consistent with the construction activities or matters under consideration and dispute. Each meeting shall consist of a round table discussion and a field inspection of the work being performed on the contract, if necessary. Each meeting shall be attended by representatives of both parties. The agenda shall generally be as follows:

1. Meeting opened by the DRB Chairperson.
2. Remarks by the STATE's representative.
3. A description by the CONTRACTOR's representative of work accomplished since the last meeting; the current schedule status of the work; and a forecast for the coming period.
4. An outline by the CONTRACTOR's representative of potential problems and a description of proposed solutions.
5. An outline by the STATE's representative of the status of the work as the STATE views it.
6. A brief description by the CONTRACTOR's or STATE's representative of potential claims or disputes which have surfaced since the last meeting.

7. A summary by the STATE's representative, the CONTRACTOR's representative, or the DRB of the status of past disputes and potential claims.

The STATE's representative will prepare minutes of all progress meetings and circulate them for revision and approval by all concerned within 10 days of the meeting.
The field inspection shall cover all active segments of the work, the DRB being accompanied by both parties' representatives. The field inspection may be waived upon mutual agreement of the parties.

D. DRB CONSIDERATION AND HANDLING OF DISPUTES

Upon receipt by the DRB of a written referral of a dispute, the DRB shall convene to review and consider the dispute. The dispute meeting shall be held no earlier than 30 days and no later than 60 days after receipt of the written referral, unless otherwise agreed to by all parties. The DRB shall determine the time and location of DRB dispute meetings, with due consideration for the needs and preferences of the parties while recognizing the paramount importance of speedy resolution of issues. No dispute meetings shall take place later than 30 days prior to acceptance of contract.
Normally, dispute meetings shall be conducted at or near the project site. However, any location that would be more convenient and still provide required facilities and access to necessary documentation shall be satisfactory.
Both parties shall be given the opportunity to present their evidence at these dispute meetings. It is expressly understood that the DRB members are to act impartially and independently in the consideration of the contract provisions, applicable laws and regulations, and the facts and conditions surrounding any dispute presented by either party, and that the recommendations concerning any such dispute are advisory and nonbinding on the parties.
The DRB may request that written documentation and arguments from both parties be sent to each DRB member, for review before the dispute meeting begins. A party furnishing written documentation to the DRB shall furnish copies of such information to the other party at the same time that such information is supplied to the DRB.
DRB dispute meetings shall be informal. There shall be no testimony under oath or cross-examination. There shall be no reporting of the procedures by a shorthand reporter or by electronic means. Documents and verbal statements shall be received by the DRB in conformance with acceptance standards established by the DRB. These standards need not comply with prescribed legal laws of evidence.
The third DRB member shall act as Chairperson for dispute meetings and all other DRB activities. The parties shall have a representative at all dispute meetings. Failure to attend a duly noticed dispute meeting by either of the parties shall be conclusively considered by the DRB as indication that the non-attending party considers written submittals as their entire and complete argument. The claimant shall discuss the dispute, followed by the other party. Each party shall then be allowed one or more rebuttals until all aspects of the dispute are thoroughly covered. DRB members shall ask questions, seek clarification, and request further data from either of the parties as may be necessary to assist in making a fully informed recommendation. The DRB may request from either party documents or information that would assist the DRB in making its findings and recommendations including, but not limited to, documents used by the CONTRACTOR in preparing the bid for the project. . In large or complex cases, additional dispute meetings may be necessary in order to consider all the evidence presented by both parties. All involved parties shall maintain the confidentiality of all documents and information, as provided in this AGREEMENT.
During dispute meetings, no DRB member shall express an opinion concerning the merit of any facet of the case. DRB deliberations shall be conducted in private, with interim individual views kept strictly confidential.
After dispute meetings are concluded, the DRB shall meet in private and reach a conclusion supported by 2 or more members. Private sessions of the DRB may be held at a location other than the job site or by electronic conferencing as deemed appropriate, in order to expedite the process.

The DRB's findings and recommendations, along with discussion of reasons therefor, shall then be submitted as a written report to both parties. Recommendations shall be based on the pertinent contract provisions, applicable laws and regulations, and facts and circumstances related to the dispute. The report shall be thorough in discussing the facts considered, the contract language, law or regulation viewed by the DRB as pertinent to the issues, and the DRB's interpretation and reasoning in arriving at its conclusions and recommendations. The DRB's report shall stand on its own, without attachments or appendices. The DRB Chairperson shall furnish a copy of the written recommendation report to the DRB Coordinator, Division of Construction, MS 44, P.O. Box 942874, Sacramento, CA 94274.
With prior written approval of both parties, the DRB may obtain technical services necessary to adequately review the disputes presented, including audit, geotechnical, schedule analysis and other services. The parties' technical staff may supply those services as appropriate. The cost of technical services, as agreed to by the parties, shall be borne equally by the 2 parties as specified in an approved contract change order. The CONTRACTOR will not be entitled to markups for the payments made for these services.
The DRB shall make every effort to reach a unanimous decision. If this proves impossible, the dissenting member shall prepare a minority opinion, which shall be included in the DRB's report. Although both parties should place weight upon the DRB's recommendations, they are not binding. Either party may request clarification or reconsideration. Reconsideration will be permitted only when there is new evidence to present, and the DRB shall accept only one such request from each party pertaining to an individual DRB recommendation. The DRB shall hear requests for clarification and reconsideration in conformance with the terms described in the Section entitled "Dispute Review Board" in the special provisions.

E. DRB MEMBER REPLACEMENT

Should the need arise to appoint a replacement DRB member, the replacement DRB member shall be appointed in the same manner as the original DRB members were appointed. The selection of a replacement DRB member shall begin promptly upon notification of the necessity for a replacement and shall be completed within 15 days. This AGREEMENT shall be amended to indicate change in DRB membership.

F. INFORMAL DISPUTE MEETING

An informal dispute meeting shall be convened, only if, the parties and the DRB agree that this dispute resolution process is appropriate to settle the dispute.
The following procedure shall be used for the informal dispute meeting:

a. The parties shall furnish the DRB with one copy of pertinent documents requested by the DRB that are or may become necessary for the DRB to perform its function. The party furnishing documents shall furnish such documents to the other party at the same time the document is provided to the DRB.
b. After the dispute meeting has concluded; the DRB members shall deliberate in private the same day, until a response to the parties is reached or as otherwise agreed to by the parties.
c. The DRB then verbally delivers its recommendation with findings, including minority opinion, if any, to the parties.
d. After the recommendation is presented, the parties may ask for clarifications.
e. Occasionally the DRB on complex issues may be unable to formulate a recommendation based on the information given at a dispute meeting. However, the DRB may provide the parties with advice on strengths and weaknesses of their prospective positions, in the hope of the parties reaching settlement.
f. If the parties are able to settle their dispute with the aid of the DRB's opinion, the STATE and CONTRACTOR shall promptly accept and implement the settlement of the parties.

g. The DRB will not be bound by its oral recommendation in the event that a dispute is later heard by the DRB in a traditional dispute meeting.

Unless the dispute is settled, use of the informal dispute meeting does not relieve the parties of their responsibilities under Section 5-1.12, "Dispute Review Board," of the Special Provisions or Subsection II.D, "DRB CONSIDERATION AND HANDLING OF DISPUTES" of this AGREEMENT. There will be no extension of time allowed for the process to permit the use of the informal dispute meeting, unless otherwise agreed to by the parties.

SECTION III CONTRACTOR RESPONSIBILITIES

The CONTRACTOR shall furnish to each DRB member one copy of pertinent documents that are or may become necessary for the DRB to perform their function. Pertinent documents are written notices of potential claim, responses to those notices, drawings or sketches, calculations, procedures, schedules, estimates, or other documents which are used in the performance of the work or in justifying or substantiating the CONTRACTOR's position. The CONTRACTOR shall also furnish a copy of such pertinent documents to the STATE, in conformance with the terms outlined in the special provisions.

SECTION IV STATE RESPONSIBILITIES

The STATE will furnish the following services and items:

A. CONTRACT RELATED DOCUMENTS

The STATE will furnish to each DRB member one copy of Notice to Contractors and Special Provisions, Proposal and Contract, Plans, Standard Specifications, and Standard Plans, change orders, written instructions issued by the STATE to the CONTRACTOR, or other documents pertinent to any dispute that has been referred to the DRB and necessary for the DRB to perform its function.

B. COORDINATION AND SERVICES

The STATE, through the Engineer, will, in cooperation with the CONTRACTOR, coordinate the operations of the DRB. The Engineer will arrange or provide conference facilities at or near the project site and provide secretarial and copying services to the DRB without charge to the CONTRACTOR.

SECTION V TIME FOR BEGINNING AND COMPLETION

Once established, the DRB shall be in operation until the day of acceptance of the contract. The DRB members shall not begin work under the terms of this AGREEMENT until authorized in writing by the STATE.

SECTION VI PAYMENT

A. ALL INCLUSIVE RATE PAYMENT

The STATE and the CONTRACTOR shall bear the costs and expenses of the DRB equally. Each of the State and Contractor DRB appointees shall be compensated at the rate of $1800 per day of DRB meeting. The third DRB member shall be compensated at the rate of $2400 per day of DRB meeting. Beginning January 1, 2010 the State and Contractor DRB appointees shall be compensated at an agreed rate of $2000 per day of DRB meeting. The third DRB member shall be compensated at an agreed rate of $2600 per day of DRB meeting. The agreed rates shall be considered full compensation for on-site time, travel expenses, transportation, lodging, time for travel and incidentals for each day, or portion thereof, that the DRB member is at an authorized DRB meeting. Authorized DRB meetings may include visits to production facilities in other states or nations. No additional compensation will be made for time spent by DRB members in review and research activities outside the official DRB meetings unless that time has

been specifically agreed to in advance by the STATE and CONTRACTOR. Time away from the project that has been specifically agreed to in advance by the parties will be compensated at an agreed rate of $180 per hour for each of the State and Contractor DRB appointees and $250 per hour for the third DRB member. Beginning January 1, 2010, time away from the project, which has been specifically agreed to in advance by the parties, will be compensated at an agreed rate of $200 per hour for each of the State and Contractor DRB appointees and $270 per hour for the third DRB member. The agreed hourly rates shall include all incidentals including expenses for telephone, fax, and computer services. Members serving on more than one DRB involving the State, regardless of the number of meetings per day, shall not be paid more than the all inclusive rate per day or rate per hour for an individual project. The STATE will provide, at no cost to the CONTRACTOR, administrative services such as conference facilities and secretarial services to the DRB.

B. PAYMENTS

The CONTRACTOR shall make direct payments to each DRB member for their participation in authorized meetings and approved hourly rate charges from invoices submitted by each DRB member. The STATE will reimburse the CONTRACTOR for its share of the costs of the DRB.

The DRB members may submit invoices to the CONTRACTOR for partial payment for work performed and services rendered for their participation in authorized meetings not more often than once per month during the progress of the work. The invoices shall be in a format approved by the parties and accompanied by a general description of activities performed during that billing period. Payment for hourly fees, at the agreed rate, shall not be paid to a DRB member until the amount and extent of those fees are approved by the STATE and CONTRACTOR.

Invoices shall be accompanied by original supporting documents, which the CONTRACTOR shall include with the extra work billing when submitting for reimbursement of the STATE's share of cost from the STATE. The CONTRACTOR will be reimbursed for one-half of approved costs of the DRB. No markups will be added to the CONTRACTOR's payment.

C. INSPECTION OF COSTS RECORDS

The DRB members and the CONTRACTOR shall keep available for inspection by representatives of the STATE and the United States, for a period of 3 years after final payment, the cost records and accounts pertaining to this AGREEMENT. If any litigation, claim, or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the 3-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

SECTION VII ASSIGNMENT OF TASKS OF WORK

The DRB members shall not assign the work of this AGREEMENT.

SECTION VIII TERMINATION OF DRB MEMBERS

DRB members may resign from the DRB by providing not less than 15 days written notice of the resignation to the STATE and CONTRACTOR. DRB members may be terminated by their original appointing power or by either party, for failing to fully comply at all times with all required disclosure conditions of DRB membership in conformance with the terms of the contract.

SECTION IX LEGAL RELATIONS

The parties hereto mutually understand and agree that a DRB member in the performance of duties on the DRB, is acting in the capacity of an independent agent and not as an employee of either party.

No party to this AGREEMENT shall bear a greater responsibility for damages or personal injury than is normally provided by Federal or State of California Law.

Notwithstanding the provisions of the contract that require the CONTRACTOR to indemnify and hold harmless the STATE, the parties shall jointly indemnify and hold harmless the DRB members from and

against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of and resulting from the findings and recommendations of the DRB.

SECTION X CONFIDENTIALITY

The parties hereto mutually understand and agree that all documents and records provided by the parties in reference to issues brought before the DRB, which documents and records are marked "Confidential - for use by the DRB only," shall be kept in confidence and used only for the purpose of resolution of subject disputes, and for assisting in development of DRB findings and recommendations; that such documents and records will not be utilized or revealed to others, except to officials of the parties who are authorized to act on the subject disputes, for any purposes, during the life of the DRB. Upon termination of this AGREEMENT, said confidential documents and records, and all copies thereof, shall be returned to the parties who furnished them to the DRB. However, the parties understand that such documents shall be subsequently discoverable and admissible in court or arbitration proceedings unless a protective order has been obtained by the party seeking further confidentiality.

SECTION XI DISPUTES

Disputes between the parties arising out of the work or other terms of this AGREEMENT, which cannot be resolved by negotiation and mutual concurrence between the parties, or through the administrative process provided in the contract, shall be resolved by arbitration as provided in Section 9-1.10, "Arbitration," of the Standard Specifications. Disputes between the DRB and either party, which cannot be resolved by negotiation and mutual concurrence, shall be resolved in the appropriate forum.

SECTION XII VENUE, APPLICABLE LAW, AND PERSONAL JURISDICTION

In the event that any party, including an individual member of the DRB, deems it necessary to institute arbitration proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that such action shall be initiated in the Office of Administrative Hearings of the State of California. The parties hereto agree that all questions shall be resolved by arbitration by application of California law and that the parties to such arbitration shall have the right of appeal from such decisions to the Superior Court in conformance with the laws of the State of California. Venue for the arbitration shall be Sacramento or any other location as agreed to by the parties.

SECTION XIII FEDERAL REVIEW AND REQUIREMENTS

On Federal-Aid contracts, the Federal Highway Administration shall have the right to review the work of the DRB in progress, except for private meetings or deliberations of the DRB.
Other Federal requirements in this agreement shall only apply to Federal-Aid contracts.

SECTION XIV CERTIFICATION OF THE CONTRACTOR, THE DRB MEMBERS, AND THE STATE

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

DRB MEMBER

By: _____

Title: _____

DRB MEMBER

By: _____

Title: _____

DRB MEMBER

By: _____

Title: _____

CONTRACTOR

By: _____

Title: _____

CALIFORNIA STATE DEPARTMENT
OF TRANSPORTATION

By: _____

Title: _____