



CALIFORNIA

High-Speed Rail Authority

Track and Systems Agreement No.: [●]

Part A-1: SIGNATURE DOCUMENT

INDUSTRY DRAFT – May 9, 2019

STANDARD AGREEMENT
STD 213 (Rev 06/03)

AGREEMENT NUMBER [•]
REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and Contractor named below:

STATE AGENCY'S NAME

California High-Speed Rail Authority

CONTRACTOR'S NAME

2. The term of this Agreement is: **See Attachment A, Article 10**

3. The maximum amount of this Agreement is: **See Attachment A, Article 5**

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

- Attachment A: Signature Document General Terms
- Attachment B: Pricing
- Attachment C: Key Personnel
- Attachment D: Designated Representatives and Addresses for Notices
- Attachment E: Letter of Credit (Construction)
- Attachment F: Letter of Credit (Maintenance)
- Attachment G: Payment Bond
- Attachment H: Performance Bond (Construction)
- Attachment I: Performance Bond (Maintenance)
- Attachment J: Guaranty
- Attachment K: Davis-Bacon Act Wage Rates
- Attachment L: Letter of Assent

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this Agreement as if attached hereto
 These documents can be viewed at <http://www.ols.dgs.ca.gov/Standard+Language>.

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

CONTRACTOR	California Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)	
BY (Authorized Signature) _____ DATE SIGNED (Do not type) _____	
PRINTED NAME AND TITLE OF PERSON SIGNING _____	
ADDRESS _____	
STATE OF CALIFORNIA	
AGENCY NAME California High-Speed Rail Authority	
BY (Authorized Signature) _____ DATE SIGNED (Do not type) _____	
PRINTED NAME AND TITLE OF PERSON SIGNING _____	
ADDRESS 770 L Street, Suite 800, Sacramento, CA 95814	



Exhibit 1

APPROVED AS TO FORM	
AGENCY NAME California High-Speed Rail Authority	
BY (Authorized Signature)	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING Thomas Fellenz, Chief Counsel	

APPROVED AS TO FORM	
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.))	
BY (Authorized Signature)	DATE SIGNED (Do not type)
PRINTED NAME AND TITLE OF PERSON SIGNING	



Exhibit 2

Signature Document

Attachment A:	Signature Document General Terms
Attachment B:	Pricing
Attachment C:	Key Personnel
Attachment D:	Authorized Representatives Addresses for Notices
Attachment E:	Letter of Credit (Construction)
Attachment F:	Letter of Credit (Maintenance)
Attachment G:	Payment Bond
Attachment H:	Performance Bond (Construction)
Attachment I:	Performance Bond (Maintenance)
Attachment J:	Guaranty
Attachment K:	Davis-Bacon Act Wage Rates
Attachment L:	Letter of Assent



Attachment A: Signature Document General Terms

RECITALS

- A. On _____ Authority issued Request for Proposals No. HSR [●] (as amended, “RFP”) for the provision of the Rail Infrastructure System and other related goods and services, pursuant to procurement authority granted in [Section 185036(a)] of the California Public Utilities Code.
- B. Authority evaluated proposals in response to the RFP, and has selected Contractor for award of the Contract based on a determination that its Proposal provided the best overall value to Authority.
- C. The Contract includes provisions intended to allow Authority’s goal for the Project to be achieved and to reflect Contractor’s assumption of responsibility, risk, and liability for the provision of the Rail Infrastructure System and other related goods and services, and a requirement to pay Liquidated Damages in the event of unexcused delay in completion, for failure to meet Performance Standards and for replacement of Key Personnel. The RFP required Proposers to account for such restrictions and requirements in determining the proposed Contract Amount.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. Contract

The Contract is defined in the “Definitions” clause (Article 1) of the General Provisions. The Contract shall be deemed to include all provisions required by Applicable Law to be inserted in the Contract, whether actually inserted or not. Any initially capitalized terms used but not defined in this Signature Document shall have the meaning given them in the General Provisions.

ARTICLE 2. Rail Infrastructure System

Contractor shall: design, build, test and certify the Work; develop Design and Operational Safety Cases for the Project; certify and maintain the Project; build necessary Maintenance Facilities; and perform certain specified interface and integration duties with respect to Authority’s other contractors, all in accordance with the Functional and Technical Requirements, the Baseline Program, the Quality Plan, the Safety Plan, the Testing and Commissioning Program, all applicable laws, and all other Contract requirements.



ARTICLE 3. Milestone Acceptance Deadlines

Contractor shall meet the following Milestone Acceptance Deadlines:

- (a) obtain a Certificate of Provisional Acceptance of Plain Line of Segment 1 by June 30, 2022;
- (b) obtain a Certificate of Provisional Acceptance of Segment Integrated Static Tests of Segment 1 by [December 30, 2025];
- (c) obtain a Certificate of Final Acceptance of Segment 1 by [December 31, 2028];
- (d) obtain a Certificate of Final Acceptance of Segment 2 within 36 months after NTP 2;
- (e) obtain a Certificate of Final Acceptance of Segment 3 within 36 months after NTP 3; and
- (f) obtain a Certificate of Final Acceptance of any additional Segment as agreed to by the parties.

ARTICLE 4. Compensation

The Contract Amount constitutes full compensation for the Work, provided Contractor shall not perform any Work prior to the Authority's issuance of an NTP. The components of the Contract Amount are set forth in Attachment B, provided such amounts are subject to escalation in accordance with the Contract.

ARTICLE 5. Key Personnel

Key Personnel are set forth in Attachment C.

ARTICLE 6. Project Organization and Contacts

Attachment D identifies the Authority Representative and the Contractor Program Director, which are authorized to make decisions and bind Authority and Contractor respectively on matters relating to the Contract. Authority and Contractor shall have the right to change its representative and addresses for notices upon written notice delivered pursuant to this Article. The Parties may also designate other representatives who shall be authorized to investigate and report on matters relating to the Work and negotiate on behalf of each of the Parties.

All notices and other communications concerning the Contract shall be written in English, shall bear the number assigned to the Contract by Authority and shall follow Authority's correspondence format and reference system.

Notices and other communications may be delivered personally, by private package delivery, by facsimile, or by regular, certified, or registered mail. A notice to Authority will be effective



only if it is delivered to Authority Representative and other person(s) designated for delivery of notices in Attachment D, and a notice to Contractor will be effective only if it is delivered to the Contractor Program Director and other person(s) designated for delivery of notices in Attachment D.

Notices shall be deemed delivered when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U. S. Postal Service, private carrier or other Person making the delivery. Notwithstanding the foregoing, notices sent by tele-facsimile after 4:00 p.m. Pacific Standard or Daylight Time (as applicable) and all other notices received after 5:00 p.m. shall be deemed received on the first business day following delivery (that is, in order for a fax to be deemed received on the same day, at least the first page of the fax must have been received before 4:00 p.m.). Any technical problem or any failure of any kind preventing Contractor from delivering notice in accordance with the Contract shall be the sole responsibility of Contractor.

Contractor shall copy Authority on all written correspondence pertaining to the Contract between Contractor and any Person other than Contractor's Subcontractors, consultants and attorneys.

ARTICLE 7. Organization

Contractor represents, warrants and covenants for the benefit of Authority as follows. Contractor is a _____, duly organized and validly existing under the laws of the State of _____, with all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted. Contractor is composed of _____. _____ is a _____, duly organized and validly existing under the laws of _____, with all requisite power to own its own properties and assets and carry on its business as now conducted or proposed to be conducted. *[To be conformed in execution version.]*

Contractor and each of its members are duly qualified to do business and are in good standing in the State and will remain in good standing throughout the term of the Contract and for as long thereafter as any obligations remain outstanding under the Contract.

Contractor's license number is _____ with an expiration date of _____. *[To be added in execution version.]*

Contractor's Public Works Registration Number is _____. *[To be added in execution version.]*



ARTICLE 8. Authority Obligations

Authority will obtain the following property (the “Maintenance of Way Facility Property”) by [Deadline to be provided] to allow Contractor to construct the Maintenance of Way Facilities needed to perform the required maintenance:

- (a) [Parcel description to be provided.] (“Parcel 1”)
- (b) [Parcel description to be provided.] (“Parcel 2”)
- (c) [Parcel description to be provided.] (“Parcel 3”)

Authority will provide Rolling Stock (including a driver) for use by Contractor in testing the Project by [Deadline to be provided].

Authority will provide Contractor with a specified radio frequency to use in connection with the operation of the Project by [Deadline to be provided].

Authority will provide Contractor with access to electrical power and other required utilities to run the Project by [Deadline to be provided].

Authority will provide Contractor with a building to use as an Operations Control Center (“OCC”) by [Deadline to be provided]. Contractor will be responsible for making any changes to the building and supplying all fixtures and equipment necessary to use the building as an OCC.

Authority will provide Contractor with access to electrical power (115 or 230 kV) at the Traction Power Substations during the Construction Period of each Segment. Authority will provide Contractor with certain property on which to construct the required Traction Power Substations by [Deadline to be provided].

Authority will obtain all Governmental Approvals listed in Schedule 13 to the General Provisions by deadlines specified therein.

Authority will provide Contractor with Primary Access to the Site in Sections. Upon Contractor receiving of Primary Access to a Section, the applicable civil contractor will have Shared Access to the Section. Prior to Contractor receiving Primary Access to a Section, the applicable civil contractor will have Primary Access and Contractor will have Shared Access to the Section.

As a condition to receiving Primary Access to a Section:

- (1) Contractor is required to concur with the following: (A) the access is of sufficient width for the guideway; (B) the Section meets the requirements of the applicable civil contract,



including use of correct material and, for embankments and at grade Sections, compaction to appropriate standards; and

(2) Authority will make available the documentation related to the status of completion of the Section from the applicable civil contractor, including, for embankments and at grade Sections, provision of monitoring reports regarding settlement.

ARTICLE 9. Contract Time

The Contract shall become effective upon the date of execution by Authority. Contractor shall begin the Work on the date set forth in each Notice to Proceed issued by Authority. The Work shall end at the conclusion of the Service Period, unless terminated earlier in accordance with the terms of the Contract.

ARTICLE 10. Security

A copy of the form of Letter of Credit (Construction) and a copy of the form of Letter of Credit (Maintenance) is provided in Attachments E and F, respectively, to this Signature Document. A copy of the form of Payment Bond is provided in Attachment G to this Signature Document. A copy of the form of Performance Bond (Construction) and a copy of the form of Performance Bond (Maintenance) is provided in Attachments H and I to this Signature Document. A copy of the form of Guaranty is provided in Attachment J to this Signature Document.

ARTICLE 11. Davis-Bacon Act Wage Rates

A copy of the Davis-Bacon Act Wage Rates is attached as Attachment K.



Attachment B: Pricing

[INSERT PRICING INFORMATION]



Attachment C: Key Personnel

Key Personnel *[Insert information from Attachment __ (Key Personnel) from the Proposal in execution version.]*

[INSERT LIST OF KEY PERSONNEL.]



Attachment D: Authorized Representatives and Addresses for Notices

The Authority Representative is:

California High-Speed Rail Authority

770 L Street

Suite 620, MS-2

Sacramento, CA 95814

The Contractor Program Director is:

Copies of all notices from Contractor regarding disputes, termination and default notices shall be delivered to the following persons in addition to the Authority Representative:

Thomas Fellenz, Chief Counsel

California High-Speed Rail Authority

770 L Street, Suite 620, MS-2, Sacramento, CA 95814

Copies of all notices from Authority regarding disputes, termination and default notices shall be delivered to the following persons in addition to the Contractor Program Director:



Attachment E: Form of Letter of Credit (Construction)

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER: _____

PLACE FOR PRESENTATION OF DRAFT: _____

(Name and Address of Bank/Branch – Must be an office in the United States at which the letter of credit can be presented for payment by facsimile or by electronic means)

APPLICANT: *[Insert name of Contractor]*

BENEFICIARY: CALIFORNIA HIGH-SPEED RAIL AUTHORITY

[Attn:]

770 L Street, Suite 620 MS 2

Sacramento, CA 95814

LETTER OF CREDIT NUMBER: _____

PLACE AND DATE OF ISSUE: _____

AMOUNT: _____ **United States Dollars (US\$** _____ **)**

EXPIRATION DATE: _____

Issuer hereby issues this Irrevocable Standby Letter of Credit in favor of the Beneficiary, for any sum or sums up to the aggregate amount of

_____ **United States Dollars (US\$** _____ **),**
available by draft(s) at sight drawn on Issuer and payable immediately.

Any draft(s) under this Letter of Credit shall:

1. Identify this Irrevocable Standby Letter of Credit by the name of Issuer, and the Letter of Credit number, amount, and place and date of issue; and
2. State one of the following:

“This drawing is due to the failure of _____ (Applicant’s name) _____ to pay or perform when due any obligations under the Track and Systems Agreement (Agreement No. [●]) between Applicant and Beneficiary (the “Agreement”).”

or



“This drawing is due to the failure of Applicant, as required under the Agreement, to deliver to Beneficiary a new or replacement letter of credit, on the same terms, by not later than 30 days before the expiration date of this letter of credit.”

or

“This drawing is due to the fact that within 30 days of Beneficiary notifying Applicant that Issuer does not meet the minimum requirements for the Issuer set forth in the Agreement, Applicant has failed to provide a substitute letter of credit issued by a financial institution that meets these minimum requirements.”

All drafts will be honored if presented to _____ (Bank/Branch - Name & Address) _____ on or before _____ (Expiration Date) _____ or any extended expiration date.

Drawings by facsimile to facsimile number () _____ are acceptable (each such drawing, a "Fax Drawing") provided, however, that a Fax Drawing will not be effectively presented until Beneficiary confirms, by telephone, Issuer’s receipt of such Fax Drawing by calling Issuer at telephone number () _____. Issuer will acknowledge Beneficiary’s presentment by e-mail to the e-mail address provided to Issuer in the Fax Drawing.

This Letter of Credit shall allow for multiple draws.

This Letter of Credit shall be automatically extended for successive periods of one year, without amendment, from the stated expiration date and each extended expiration date unless we send Beneficiary written notice of our intent not to extend the credit; which notice must be sent at least 30 days prior to the expiration date of the original term hereof or any extended one year term, by registered or certified mail or overnight courier, to Beneficiary at the address for Beneficiary stated above or any other address specified in writing from an executive officer of Beneficiary to Issuer at Issuer’s address stated above.

This Letter of Credit is subject to the rules of the “International Standby Practices” ISP98. For matters not addressed by ISP98, this Letter of Credit shall be governed by California law.

Issuer:

By: _____ (Authorized signature of Issuer) _____



Attachment F: Form of Letter of Credit (Maintenance)

IRREVOCABLE STANDBY LETTER OF CREDIT

ISSUER: _____

PLACE FOR PRESENTATION OF DRAFT: _____

(Name and Address of Bank/Branch – Must be an office in the United States at which the letter of credit can be presented for payment by facsimile or by electronic means)

APPLICANT: *[Insert name of Contractor]*

BENEFICIARY: CALIFORNIA HIGH-SPEED RAIL AUTHORITY

[Attn:]

770 L Street, Suite 620 MS 2

Sacramento, CA 95814

LETTER OF CREDIT NUMBER: _____

PLACE AND DATE OF ISSUE: _____

AMOUNT: _____ **United States Dollars (US\$** _____ **)**

EXPIRATION DATE: _____

Issuer hereby issues this Irrevocable Standby Letter of Credit in favor of the Beneficiary, for any sum or sums up to the aggregate amount of

_____ **United States Dollars (US\$** _____ **),**
available by draft(s) at sight drawn on Issuer and payable immediately.

Any draft(s) under this Letter of Credit shall:

1. Identify this Irrevocable Standby Letter of Credit by the name of Issuer, and the Letter of Credit number, amount, and place and date of issue; and
2. State one of the following:

“This drawing is due to the failure of _____ (Applicant’s name) _____ to pay or perform when due any obligations under the Track and Systems Agreement (Agreement No. [●]) between Applicant and Beneficiary (the “Agreement”).”

or



“This drawing is due to the failure of Applicant, as required under the Agreement, to deliver to Beneficiary a new or replacement letter of credit, on the same terms, by not later than 30 days before the expiration date of this letter of credit.”

or

“This drawing is due to the fact that within 30 days of Beneficiary notifying Applicant that Issuer does not meet the minimum requirements for the Issuer set forth in the Agreement, Applicant has failed to provide a substitute letter of credit issued by a financial institution that meets these minimum requirements.”

All drafts will be honored if presented to _____ (Bank/Branch - Name & Address) _____ on or before _____ (Expiration Date) _____ or any extended expiration date.

Drawings by facsimile to facsimile number () _____ are acceptable (each such drawing, a "Fax Drawing") provided, however, that a Fax Drawing will not be effectively presented until Beneficiary confirms, by telephone, Issuer’s receipt of such Fax Drawing by calling Issuer at telephone number () _____. Issuer will acknowledge Beneficiary’s presentment by e-mail to the e-mail address provided to Issuer in the Fax Drawing.

This Letter of Credit shall allow for multiple draws.

This Letter of Credit shall be automatically extended for successive periods of one year, without amendment, from the stated expiration date and each extended expiration date unless we send Beneficiary written notice of our intent not to extend the credit; which notice must be sent at least 30 days prior to the expiration date of the original term hereof or any extended one year term, by registered or certified mail or overnight courier, to Beneficiary at the address for Beneficiary stated above or any other address specified in writing from an executive officer of Beneficiary to Issuer at Issuer’s address stated above.

This Letter of Credit is subject to the rules of the “International Standby Practices” ISP98. For matters not addressed by ISP98, this Letter of Credit shall be governed by California law.

Issuer:

By: _____ (Authorized signature of Issuer) _____



Attachment G: Form of Payment Bond

Contract No.: HSR 14-30

Bond No.: _____

WHEREAS, the California High-Speed Rail Authority (“Obligee”), has awarded to _____, a _____

(“Principal”), Contract No. [●]

dated as of _____, 20____ (the “Contract”), on the terms and conditions set forth therein; and

WHEREAS, Principal is required to furnish a bond guaranteeing payment of claims for public works as described in Public Contract Code 7103 concurrently with delivery to Obligee of the executed Contract.

NOW, THEREFORE, Principal and _____,

a _____,

and _____,

a _____

(collectively “Co-Sureties”), each an admitted surety insurer in the State of California, are held

and firmly bound unto Obligee in the amount of \$ _____ [insert 100 percent of the cost of the Work] (the “Bonded Sum”), for payment of which sum Principal and Co-Sureties jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall fail to pay any of the persons named in Civil Code Section 9100; or any amounts due under the Unemployment Insurance Code; or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Principal and subcontractors pursuant to the Unemployment Insurance Code Section 13020, with respect to the Work, then Co-Sureties shall pay for the same in an amount not to exceed the Bonded Sum; otherwise this obligation shall be null and void.

The Contract is incorporated by reference herein.

No alteration, modification, or supplement to the Contract or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Co-Sureties under this bond and Co-Sureties hereby waive notice thereof.

The Co-Sureties agree to empower a single representative with responsibility for coordinating among all of the Co-Sureties with respect to this bond, so that Obligee will have no obligation to deal with multiple sureties hereunder. All correspondence from Obligee to the Co-Sureties and all claims under this bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail with return receipt requested) to Obligee designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be:



and the initial agent for service of process shall be: _____

This bond shall inure to the benefit of the persons named in Civil Code Section 9100 so as to give a right of action to such persons and their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, Principal and Co-Sureties have caused this bond to be executed and delivered as of _____, 20_____.

Principal:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

[ADD APPROPRIATE CO-SURETY ACKNOWLEDGMENTS]



Attachment H: Form of Performance Bond (Construction)

Contract No.: [•] _____

Bond No.: _____

WHEREAS, the California High-Speed Rail Authority (“Obligee”), has awarded to _____, a _____

(“Principal”), Contract No. [•] _____

dated as of _____ 20 ____ (the “Contract”), on the terms and conditions set forth therein; and

WHEREAS, Principal is required to furnish a bond guaranteeing the faithful performance of its obligations under the Contract concurrently with delivery to Obligee of the executed Contract.

NOW, THEREFORE, Principal and _____,

a _____,

and _____,

a _____

(collectively “Co-Sureties”), each an admitted surety insurer in the State of California, are held

and firmly bound unto Obligee in the amount of \$ _____ (the “Bonded Sum”), for payment of which sum Principal and Co-Sureties jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract, including any and all amendments and supplements thereto, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Contract is incorporated by reference herein.

This bond specifically guarantees the performance of each and every obligation of Principal under the Contract, as it may be amended and supplemented, including but not limited to its liability for liquidated damages as specified in the Contract, but not to exceed the Bonded Sum.

In the event that Principal is in default, is declared by Obligee to be in default under the Contract, and provided that Obligee is not then in material default thereunder, Co-Sureties shall promptly perform the following actions:

- Remedy such default;
- Complete the Contract in accordance with the terms and conditions of the Contract then in effect; or
- Select a contractor or contractors to complete the Work in accordance with the terms and conditions of the Contract then in effect, using a procurement methodology approved by Obligee, arrange for a contract between such contractor or contractors and Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under



such contract or contracts of completion arranged under this paragraph), sufficient funds to pay the cost of completion less the unpaid balance of the Contract Amount, but not exceeding, including other costs and damages for which Co-Sureties are liable hereunder, the Bonded Sum.

No alteration, modification or supplement to the Contract of the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Co-Sureties under this bond and Co-Sureties hereby waive notice thereof.

The Co-Sureties agree to empower a single representative with responsibility for coordinating among all of the Co-Sureties with respect to this bond, so that Obligees will have no obligation to deal with multiple sureties hereunder. All correspondence from Obligees to the Co-Sureties and all claims under this bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail with return receipt requested) to Obligees designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be:

_____ and the initial agent for service of process shall be: _____

No right of action shall accrue on this bond or for the use of any entity other than Obligees or its successors and assigns.

IN WITNESS WHEREOF, Principal and Co-Sureties have caused this bond to be executed and

delivered as of _____, 20____.

Principal:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

[ADD APPROPRIATE CO-SURETY ACKNOWLEDGMENTS]



Attachment I: Form of Performance Bond (Maintenance)

Contract No.: [●] _____

Bond No.: _____

WHEREAS, the California High-Speed Rail Authority (“Obligee”), has awarded to _____, a _____

(“Principal”), Contract No. [●] _____

dated as of _____, 20 ____ (the “Contract”), on the terms and conditions set forth therein; and

WHEREAS, Principal is required to furnish a bond guaranteeing the faithful performance of its obligations under the Contract concurrently with delivery to Obligee of the executed Contract.

NOW, THEREFORE, Principal and _____,

a _____,

and _____,

a _____

(collectively “Co-Sureties”), each an admitted surety insurer in the State of California, are held

and firmly bound unto Obligee in the amount of \$ _____ (the “Bonded Sum”), for payment of which sum Principal and Co-Sureties jointly and severally firmly bind themselves and their successors and assigns.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall promptly and faithfully perform all of its obligations under the Contract, including any and all amendments and supplements thereto, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Contract is incorporated by reference herein.

This bond specifically guarantees the performance of each and every obligation of Principal under the Contract, as it may be amended and supplemented, including but not limited to its liability for liquidated damages as specified in the Contract, but not to exceed the Bonded Sum.

In the event that Principal is in default, is declared by Obligee to be in default under the Contract, and provided that Obligee is not then in material default thereunder, Co-Sureties shall promptly perform the following actions:

- Remedy such default;
- Complete the Contract in accordance with the terms and conditions of the Contract then in effect; or
- Select a contractor or contractors to complete the Work in accordance with the terms and conditions of the Contract then in effect, using a procurement methodology approved by Obligee, arrange for a contract between such contractor or contractors and Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under



such contract or contracts of completion arranged under this paragraph), sufficient funds to pay the cost of completion less the unpaid balance of the Contract Amount, but not exceeding, including other costs and damages for which Co-Sureties are liable hereunder, the Bonded Sum.

No alteration, modification or supplement to the Contract of the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Co-Sureties under this bond and Co-Sureties hereby waive notice thereof.

The Co-Sureties agree to empower a single representative with responsibility for coordinating among all of the Co-Sureties with respect to this bond, so that Obligees will have no obligation to deal with multiple sureties hereunder. All correspondence from Obligees to the Co-Sureties and all claims under this bond shall be sent to such designated representative. The designated representative may be changed only by delivery of written notice (by personal delivery or by certified mail with return receipt requested) to Obligees designating a single new representative, signed by all of the Co-Sureties. The initial representative shall be:

_____ and the initial agent for service of process shall be: _____

No right of action shall accrue on this bond or for the use of any entity other than Obligees or its successors and assigns.

IN WITNESS WHEREOF, Principal and Co-Sureties have caused this bond to be executed and

delivered as of _____, 20____.

Principal:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

Co-Surety:

By: _____ [SEAL]

Its: _____

[ADD APPROPRIATE CO-SURETY ACKNOWLEDGMENTS]



Attachment J: Form of Guaranty**GUARANTY**

This Guaranty (this "Guaranty") is made as of _____, 20 _____
 by _____,
 a _____
 ("Guarantor"),
 in favor of the California High-Speed Rail Authority, a public entity of the State of California (the
 "Authority").

RECITALS

- A. _____
 (the "Contractor")
 and Authority are parties to Authority's Contract No. [●] (the "Contract").
- B. Guarantor has agreed to enter into this Guarantee to induce Authority to issue the Notice to Proceed under the Contract.
- C. Contractor is a _____
[describe relationship with Guarantor]

The execution of the Contract by Authority and the consummation of the transactions contemplated thereby will materially benefit Guarantor.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty** – Guarantor guarantees to Authority and its successors and assigns the full and prompt payment and performance when due of all of the obligations of Contractor arising out of, in connection with, under or related to the Contract, including manufacturing obligations, Maintenance Facilities, Service Period obligations (including maintenance of the Rail Infrastructure System) and liability for liquidated damages and warranties from Notice to Proceed 1 until five years after Revenue Service of the first Segment. The obligations guaranteed pursuant to this Guaranty are collectively referred to herein as the "Guaranteed Obligations."
2. **Unconditional Obligations** – This Guaranty is a guaranty of payment and performance and not of collection. This Guaranty is an absolute, unconditional and irrevocable guarantee of the full and prompt payment and performance when due of all of the Guaranteed Obligations, whether or not from time to time reduced or extinguished or hereafter increased or incurred and, except as provided in the "Permitted Defenses; Contract Amendments" clause of this Guaranty, whether or not enforceable against Contractor. If any payment made by Contractor or any other Person and applied to the Guaranteed Obligations is at any time annulled, set aside, rescinded, invalidated,



declared to be fraudulent or preferential or otherwise required to be repaid or refunded, then, to the extent of such payment or repayment, the liability of Guarantor will be and remain in full force and effect as fully as if such payment had never been made. Guarantor covenants that this Guaranty will not be fulfilled or discharged, except by the complete payment and performance of the Guaranteed Obligations, whether by the primary obligor or Guarantor under this Guaranty. Without limiting the generality of the foregoing, Guarantor's obligations hereunder will not be released or discharged by:

- i. Any change in the Contract or the obligations thereunder, or any insolvency, bankruptcy or similar proceeding affecting Contractor, Guarantor or their respective assets, and
- ii. The existence of any claim or set-off which Contractor has or Guarantor may have against Authority, whether in connection with this Guaranty or any unrelated transaction. Provided that nothing in this Guaranty will be deemed to be a waiver by Guarantor of any claim or prevent the assertion of any claim by separate suit.

Except as provided in the "Permitted Defenses; Contract Amendments" clause of this Guaranty, this Guaranty will in all respects be a continuing, absolute, and unconditional guaranty irrespective of the following:

- i. The genuineness, validity, regularity or enforceability of the Guaranteed Obligations or any part thereof or any instrument or agreement evidencing any of the Guaranteed Obligations or relating thereto, or
- ii. The existence, validity, enforceability, perfection, or extent of any collateral therefor or any other circumstances relating to the Guaranteed Obligations which might otherwise constitute a defense to the Guaranteed Obligations or this Guaranty.

3. Independent Obligations – Guarantor agrees that the Guaranteed Obligations are independent of the obligations of Contractor and if any default occurs hereunder, a separate action or actions may be brought and prosecuted against Guarantor whether or not Contractor is joined therein. Authority may maintain successive actions for other defaults of Guarantor. Authority's rights hereunder will not be exhausted by the exercise of any of its rights or remedies or by any such action or by any number of successive actions until and unless all Guaranteed Obligations have been paid and fully performed.

- i. Guarantor agrees that Authority may enforce this Guaranty, at any time and from time to time, without the necessity of resorting to or exhausting any security or collateral and without the necessity of proceeding against Contractor. Guarantor hereby waives the right to require Authority to proceed against Contractor or any other Person, to exercise any right or remedy under the Contract or to pursue any other remedy or to enforce any other right.
- ii. Guarantor will continue to be subject to this Guaranty notwithstanding any of the following:



- a. Modification, agreement or stipulation between Contractor and Authority or their respective successors and assigns, with respect to the Contract or the Guaranteed Obligations;
 - b. Failure to enforce any of the terms, covenants or conditions contained in the Contract or any modification thereof; or
 - c. Release or subordination of any collateral then held by Authority as security for the performance by Contractor of the Guaranteed Obligations.
- iii. The Guaranteed Obligations are not conditional or contingent upon the genuineness, validity, regularity or enforceability of any of the Contract or the pursuit by Authority of any remedies which Authority either now has or may hereafter have with respect thereto under the Contract.
- 4. Liability of Guarantor** - Authority may enforce this Guaranty upon the occurrence of a breach by Contractor of any of the Guaranteed Obligations, notwithstanding the existence of any dispute between Authority and Contractor with respect to the existence of such a breach.

Guarantor's performance of some, but not all, of the Guaranteed Obligations will in no way limit, affect, modify or abridge Guarantor's liability for those Guaranteed Obligations that have not been performed.

Authority, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability of this Guaranty or giving rise to any reduction, limitation, impairment, discharge or termination of Guarantor's liability hereunder, from time to time may do any of the following:

- i. With respect to the financial obligations of Contractor, renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of financial obligations that are Guaranteed Obligations, and/or subordinate the payment of the same to the payment of any other obligations;
- ii. Settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto;
- iii. Request and accept other guarantees of the Guaranteed Obligations and take and hold security for the payment and performance of this Guaranty or the Guaranteed Obligations;
- iv. Release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for performance of the Guaranteed Obligations, any other guarantees of the Guaranteed Obligations, or any other obligation of any Person with respect to the Guaranteed Obligations;



- v. Enforce and apply any security hereafter held by or for the benefit of Authority in respect of this Guaranty or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that Authority may have against any such security, as Authority in its discretion may determine; and
- vi. Exercise any other rights available to it under the Contract.

This Guaranty and the obligations of Guarantor hereunder will be valid and enforceable and will not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than infeasible performance in full of the Guaranteed Obligations), including without limitation the occurrence of any of the following, whether or not Guarantor will have had notice or knowledge of any of them:

- i. Any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Contract, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement or instrument relating thereto;
- ii. Any modification, agreement or stipulation between Contractor and Authority or their respective successors and assigns, with respect to the Contract or the Guaranteed Obligations; or any consent to departure from, any of the terms or provisions (including without limitation provisions relating to events of default) of the Contract or any agreement or instrument executed pursuant thereto;
- iii. Authority's consent to the change, reorganization or termination of the corporate structure or existence of Contractor;
- iv. Any set-offs or counterclaims that Contractor may allege or assert against Authority in respect of the Guaranteed Obligations;
- v. Any failure to enforce the Guaranteed Obligations or any of the terms, covenants or conditions contained in any of the Contract or any modification thereof;
- vi. Any waiver by Authority of the Guaranteed Obligations that is not in writing and signed by the Authority Representative or that is made in the context of a bankruptcy or insolvency proceeding in which Contractor is the debtor, unless otherwise specified in said waiver;
- vii. Any release of Contractor from liability that is not in writing and signed by the Authority Representative or that is made in the context of a bankruptcy or insolvency proceeding in which Contractor is the debtor, unless otherwise specified in said release; or
- viii. Any other act or thing or omission, or delay to do any other act or thing, which may or might in any manner or to any extent vary the risk of Guarantor as an obligor in respect of the Guaranteed Obligations.



5. Waivers - To the fullest extent permitted by law, Guarantor hereby waives and agrees not to assert or take advantage of the following:

- i. Any defense that may arise by reason of the incapacity, lack of authority, death or disability of, or revocation hereby by Guarantor, Contractor or any other Person or the failure of Authority to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of any such Person;
- ii. Any defense that may arise by reason of any presentment, demand for payment or performance or otherwise, protest or notice of any other kind or lack thereof;
- iii. All notices to Guarantor or to any other Person, including notices of the acceptance of this Guaranty or the creation, renewal, extension, modification, accrual of any of the obligations of Contractor under the Contract, or of default in the payment or performance of any such obligations, enforcement of any right or remedy with respect thereto or notice of any other matters relating thereto, provided that the foregoing shall not be constructed as a waiver of any defense based on failure to provide required notices to Contractor;
- iv. Any defense based on statutes of limitations other than State of California statutes;
- v. Any requirements of diligence or promptness on the part of Authority;
- vi. Any defense based upon any act or omission of Authority which directly or indirectly results in or aids the discharge or release of Contractor, Guarantor or any security given or held by Authority in connection with the Guaranteed Obligations, except with respect to a release of Contractor from liability that is in writing and signed by the Authority Representative, other than any such release that is made in the context of a bankruptcy or insolvency proceeding in which Contractor is the debtor, unless otherwise specified in said release; and
- vii. Any and all suretyship defenses under applicable law, including any defense under Sections 2787 through 2855, inclusive, of the California Civil Code.

6. Waiver of Subrogation and Rights of Reimbursement - Until the Guaranteed Obligations have been performed in full, Guarantor waives any claim, right or remedy which it may now have or may hereafter acquire against Contractor that arises from the performance of Guarantor hereunder, including, without limitation, any claim, right or remedy of subrogation, reimbursement, exoneration, contribution, or indemnification, or participation in any claim, right or remedy of Authority against Contractor, or any other security or collateral that Authority now has or hereafter acquires, whether or not such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise.

7. Representations and Warranties

Guarantor represents and warrants that:



- i. It is a _____
duly (check one) organized formed, validly existing, and in good standing
under the laws of the State of _____
and qualified to do business and is in good standing under the laws of the State of
California;
- ii. It has all requisite (check one)
 Corporate
 Partnership
 Limited Liability Company power and authority to execute, deliver, and perform
this Guaranty;
- iii. The execution, delivery, and performance by Guarantor of this Guaranty have been
duly authorized by all necessary corporate action on the part of Guarantor;
- iv. This Guaranty has been duly executed and delivered and constitutes the legal, valid
and binding obligation of Guarantor, enforceable against Guarantor in accordance
with its terms, subject only to bankruptcy, insolvency or other similar laws affecting
creditors' rights generally;
- v. Neither the execution nor delivery of this Guaranty nor compliance with or fulfillment
of the terms, conditions, and provisions hereof, will conflict with, result in a material
breach or violation of the terms, conditions, or provisions of, or constitute a material
default, an event of default, or an event creating rights of acceleration, termination, or
cancellation, or a loss of rights under:
- a. Check one
- the certificate of incorporation or by-laws
 - certificate of limited partnership or partnership agreement
 - certificate of formation or limited liability company agreement of Guarantor,
- b. Any judgment, decree, order, contract, agreement, indenture, instrument, note,
mortgage, lease, governmental permit, or other authorization, right restriction, or
obligation to which Guarantor is a party or any of its property is subject or by
which Guarantor is bound, or
- c. Any federal, state, or local law, statute, ordinance, rule or regulation applicable to
Guarantor;
- vi. It now has and will continue to have full and complete access to any and all
information concerning the transactions contemplated by the Contract or referred to
therein, the financial status of Contractor and the ability of Contractor to pay and
perform the Guaranteed Obligations;



vii. It has reviewed and approved copies of the Contract and is fully informed of the remedies Authority may pursue, with or without notice to Contractor, Guarantor or any other Person, in the event of default of any of the Guaranteed Obligations; it has made and so long as the Guaranteed Obligations (or any portion thereof) remain unsatisfied, it will make its own credit analysis of Contractor and will keep itself fully informed as to all aspects of the financial condition of Contractor, the performance of the Guaranteed Obligations of all circumstances bearing upon the risk of nonpayment or nonperformance of the Guaranteed Obligations. Guarantor hereby waives and relinquishes any duty on the part of Authority to disclose any matter, fact or thing relating to the business, operations or conditions of Contractor now known or hereafter known by Authority;

viii. No consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which Guarantor is a party or by which Guarantor is bound, is required for the execution, delivery, or compliance with the terms hereof by Guarantor, except as have been obtained prior to the date hereof; and

ix. There is no pending or, to the best of its knowledge, threatened, action, suit, proceeding, arbitration, litigation, or investigation of or before any governmental authority which challenges the validity or enforceability of this Guaranty.

8. Notices - Any communication, notice or demand of any kind whatsoever under this Guaranty shall be in writing and delivered by personal service (including express or courier service), by electronic communication, whether by telex, telegram or telecopying (if confirmed in writing sent by registered or certified mail, postage prepaid, return receipt requested), or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Authority: California High-Speed Rail Authority
770 L Street, Suite 800
Sacramento, CA 95814
 Attention: _____
 Telephone: _____
 Telecopy: _____

If to the Guarantor: _____

 Attention: _____
 Telephone: _____



Telecopy: _____

Either Guarantor or Authority may from time to time change its address for the purpose of notices by a similar notice specifying a new address, but no such change is effective until it is actually received by the party sought to be charged with its contents.

All notices and other communications required or permitted under this Guaranty which are addressed as provided in this Article are effective upon delivery, if delivered personally or by overnight mail, and, are effective five days following deposit in the United States mail, postage prepaid if delivered by mail.

Any demand/claim under this Guaranty shall be signed by the Authority Representative, shall state that Contractor is in default under the Contract and shall state the nature of such default.

9. Permitted Defenses; Contract Amendments - Notwithstanding any other provision of this Guaranty to the contrary:

- i. Guarantor shall be entitled to the benefit of all defenses (excluding any rights of set-off or counterclaims) available to Contractor under the Contract except:
 - a. Those expressly waived in this Guaranty;
 - b. Failure of consideration, lack of authority of Contractor and any other defense to formation of the Contract; and
 - c. Defenses available to Contractor under any federal or state law respecting bankruptcy, arrangement, reorganization or similar relief of debtors; and
- ii. In the event that Contractor's obligations have been changed by any modification, agreement or stipulation between Contractor and Authority or their respective successors or assigns, the term "Guaranteed Obligations" as used herein shall mean the Guaranteed Obligations as so changed, except that the Guaranteed Obligations shall be determined without regard to the effect of any such modification, agreement or stipulation in the context of a bankruptcy or insolvency proceeding in which Contractor is the debtor, unless otherwise specified in the modification, agreement or stipulation.

10. General Provisions - Should any one or more of the provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions hereof shall be given effect separately therefrom and shall not be affected by such determination. The rights of Authority hereunder are cumulative and shall not be exhausted by any one or more exercises of said rights against Guarantor or any other entity with liability for the Guaranteed Obligations or by any number of successive actions until and unless all Guaranteed Obligations have been fully paid or performed and expiration or termination of the Contract. Guarantor agrees to execute, have acknowledged and delivered to Authority such other and further instruments as may be required by Authority to effectuate the intent and purpose hereof. No right of action shall accrue on this



Guaranty to or for the use of any Person other than Authority or its successors and assigns until Authority's claims have been satisfied in full. All words used herein in the singular shall be deemed to have been used in the plural when the context or construction so require. This Guaranty shall be governed by and be construed in accordance with the laws of the State of California. This Guaranty is binding upon and inures to the benefit of the successors and assigns of Guarantor and Authority, but is not assignable by Guarantor without the prior written consent of Authority, which consent may be granted or withheld in Authority's sole discretion. Any initially capitalized terms used but not defined in this Guaranty shall have the meaning given them in the Contract.

- 11. No Waiver** - Any forbearance or failure to exercise, and any delay by Authority in exercising, any right, power or remedy hereunder will not impair any such right, power or remedy or be construed to be a waiver thereof, nor will it preclude the further exercise of any such right, power or remedy.
- 12. Bankruptcy** - The obligations of Guarantor under this Guaranty will not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any proceeding, voluntary or involuntary, involving the bankruptcy, insolvency, receivership, reorganization, liquidation or arrangement of Contractor or by any defense which Contractor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding. Authority is not obligated to file any claim relating to the Guaranteed Obligations if Contractor becomes subject to a bankruptcy, reorganization, or similar proceeding, and the failure of Authority so to file will not affect Guarantor's obligations under this Guaranty.

13. Consent to Jurisdiction

GUARANTOR AND AUTHORITY AGREE THAT ANY ACTION OR PROCEEDING TO RESOLVE A DISPUTE BETWEEN GUARANTOR AND AUTHORITY CONCERNING THE INTERPRETATION, APPLICATION OR ENFORCEMENT OF THE TERMS OF THIS GUARANTY MAY ONLY BE BROUGHT IN SACRAMENTO COUNTY SUPERIOR COURT LOCATED IN SACRAMENTO COUNTY, CALIFORNIA OR U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA. EACH OF GUARANTOR AND AUTHORITY ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS.

- 14. Agent for Service of Process** - If not a resident of the State of California, Guarantor has appointed the following individual residing in the State of California to be its agent for service of process in any court action between Authority and Guarantor arising out of or based upon this Guaranty:

[If applicable, insert name of agent for service of process.]



Delivery to such agent of a copy of any process in any such court action shall constitute valid service upon Guarantor. Guarantor may replace its agent for service of process with another individual meeting the requirements set forth in this Article by sending Authority a prior written notice meeting the requirements of Article 8 with the replacement agent's information. Otherwise, Guarantor shall maintain its agent for service of process for the term of the Contract.

If for any reason service of process upon Guarantor's agent for service of process is not possible, then in such event Guarantor may be personally serviced with such process outside the State of California, and Guarantor agrees that such service shall constitute valid service upon Guarantor; and it is further expressly agreed that Guarantor is amenable to the process so served, submits to the jurisdiction of the court so acquired, and waives any and all objection and protest thereto.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the date first written above.

a _____
By: _____
Name: _____
Title: _____



Attachment K: Davis-Bacon Act Wage Rates

[To be attached 10 days prior to the Proposal Due Date by way of an Addendum to the RFP.]





Attachment L: Letter of Assent

[Under development. See Community Benefits Agreement.]

