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| AGREEMENT NUMBER 04A3499 |
| REGISTRATION NUMBER |

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

STATE AGENCY'S NAME

Department of Transportation (Caltrans)

CONTRACTOR'S NAME

The Presidio Trust (Trust)

2. The term of this Agreement is: **03/26/2010** through **3/31/2013**

3. The maximum amount of this Agreement is: **2,400,000.00**
Two Million Four Hundred Thousand Dollars and No Cents

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

| | |
|--|---------|
| Exhibit A – Scope of Work | 7 Pages |
| Exhibit B – Budget Detail and Payment Provisions | 2 Pages |
| Exhibit C– General Terms and Conditions (GTC 307) | 3 pages |
| Exhibit D - Special Terms and Conditions | 6 Pages |
| Attachment 1 - Cost Proposal | 1 Page |

With respect to the various references to California and federal law (including references to statutory, regulatory, and sub-regulatory requirements) contained in this Agreement or any materials incorporated by reference herein, the parties agree that the Trust shall be bound thereto only to the extent required by applicable law.

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

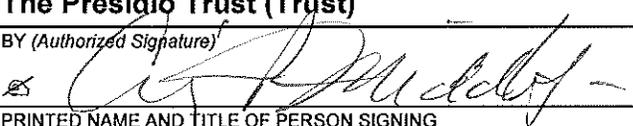
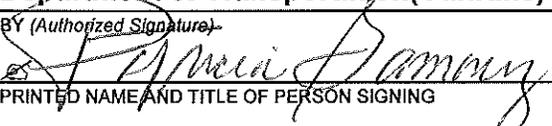
| CONTRACTOR | | California Department of General Services Use Only |
|---|---------------------------|--|
| CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) | | |
| The Presidio Trust (Trust) | | |
| BY (Authorized Signature) | DATE SIGNED (Do not type) | |
|  | 5/4/10 | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | |
| Craig Middleton, Executive Director | | |
| ADDRESS | | |
| 34 Graham Street San Francisco, CA 94129 | | |
| STATE OF CALIFORNIA | | |
| AGENCY NAME | | |
| Department of Transportation (Caltrans) | | |
| BY (Authorized Signature) | DATE SIGNED (Do not type) | |
|  | 5-5-10 | |
| PRINTED NAME AND TITLE OF PERSON SIGNING | | |
| Patricia Gamoning, Contract Officer | | |
| ADDRESS | | |
| 1727 30 th Street MS 65, Sacramento, CA 95816 | | |
| | | <input checked="" type="checkbox"/> Exempt per: PCC 10295 (C) 3 100% Federally Funded |

EXHIBIT A Services Agreement

SCOPE OF WORK

1. The California Department of Transportation, referred herein as "Caltrans", has a project to replace the portion of US Route 101 within the Presidio of San Francisco. The Presidio Parkway Project, referred herein as "Project", will have major impacts on the Presidio, Federal Land managed by the Presidio Trust, referred to herein as "Trust" or "Contractor".

The Trust agrees to furnish the personnel required for design and construction oversight and monitoring, referred herein as "Services", of the "Project", as to its impacts on the Presidio. These Services will include, but are not limited to, the review of project plans including the relocation of utilities, the relocation and/or the reconstruction of local roads, placement of detours, environmental compliance, issuance of "dig" permits and coordination and outreach with Trust tenants. These Services are further defined in Section 7 "Detailed Scope of Work".

2. Presidio Trust

The Presidio retained its active military status until 1989 when Congress voted to close surplus military installations. The Presidio transferred to the National Park Service in 1994, and two years later Congress created the Presidio Trust, responsible for the management of all 800+/- historic structures and the majority of the land in the park (Area B). The National Park Service is responsible for managing the coastal areas (Area A). By Congressional order, the Presidio Trust Act requires the 'preservation of the cultural and historic integrity of the Presidio for public use', and includes a requirement that the Trust be financially self-sustaining by 2013. <http://www.presidio.gov/trust/documents/TrustAct.htm>

3. Project Description

The project consists of the replacement of Doyle Drive in San Francisco, a stretch of 1.1 miles on US Route 101, from Lombard St./Richardson Avenue to the State Route 1 Interchange. Doyle Dr. is located within the Presidio of San Francisco, a publicly owned recreational area and historic property located at the northwestern most point of the San Francisco Peninsula. The property is approximately 600-hectares (1,480 acres) in size and is both a national park and National Historic Landmark District.

In 1994, the management was shifted from the US Army to the US Department of Interior. The Presidio Trust Act later designated that the National Park Service

**EXHIBIT A
Services Agreement**

would manage Area A and the new formed Presidio Trust would manage Area B. The Project is within Area B.

4. This Agreement will commence on **March 26, 2010** or upon approval by Caltrans, whichever is later and no work shall begin before that time. This Agreement is of no effect unless approved by Caltrans. The Contractor shall not receive payment for work performed prior to approval of the Agreement and before receipt of notice to proceed by the Contract Manager. This Agreement shall expire on **March 31, 2013**. Trust's obligation to work hereunder will cease upon performance of SERVICES in the cumulative amount of \$2.4 million. The parties may amend this agreement as permitted by law.
5. All inquiries during the term of this Agreement will be directed to the project representatives listed below:

| | |
|--|--|
| California Department of Transportation | The Presidio Trust |
| Section/Unit: Consultant Services Unit | |
| Contract Manager: Romy Fuentes | Project Manager: Mark Helmbrecht, Transportation Manager |
| Address: 111 Grand Avenue, Mail Station 7B | Address: 34 Graham Street |
| Oakland, CA 94623 | San Francisco, CA 94129 |
| Bus. Phone No.: (510) 622-8803 | Bus. Phone No.: (415) 561-5438 |
| Fax No: (510) 622-0198 | Fax No: (415) 561-7621 |

The project representatives during the term of this Agreement may be changed by advance written notice without the necessity of an amendment to the Agreement.

6. **Description of work to be performed and duties of all parties:**
 - a. CALTRANS shall pay in accordance with the terms herein, the TRUST for SERVICES and shall be funded through the American Recovery and Reinvestment Act of 2009 (ARRA) funds, State Highway Operation and Protection Program (SHOPP) funds and Metropolitan Transportation Commission (MTC) funds.
 - b. The Parties now define herein below the relative responsibilities of CALTRANS and TRUST with respect to SERVICES.

EXHIBIT A
Services Agreement

- c. To provide staff and resources for SERVICES on an as needed basis, for or related to project.

7. DETAILED SCOPE OF WORK

1. Task 1. Project Coordination

TRUST to provide Task Project Coordination. Trust shall provide a Project representative to act as the primary point of contact between the TRUST and the Doyle Drive Replacement Project. The Project representative shall be knowledgeable of the Project, and empowered to represent the TRUST for day-to-day matters that require interfacing between the TRUST and the PROJECT.

The Project representative shall:

- a. Provide overall coordination between Doyle Drive Project Team and the TRUST's departments and personnel.
- b. Ensure that Project requests and submittals are submitted to the correct Trust Department and work with those departments to prioritize and expedite all Projects requests.
- c. Be empowered to make day-to-day decisions on behalf of the TRUST to expedite reviews and approvals.
- d. Mediate and resolve any conflicts between the Project activities and Trust's construction, tenants and park visitors concerns and activities.
- e. Be empowered to elevate issues to upper management to seek approvals when needed.
- f. Attend monthly meetings.

2. Task 2. Site Investigations

Provide qualified staff to assist in the coordination and review of the Project's technical exhibits and field operations for the site investigations that are necessary to update project information needed to prepare engineering design/build plans. Following are some of the site investigations that will need Trust assistance:

- a. Treatment Monitoring / Cultural Resources:
 - 1. Meet and discuss with the project team the Cultural Resources plans, schedule and impact on the Trust operation.
 - 2. Coordinate and facilitate TRUST review of potential findings.

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- b. Geotechnical Subsurface Exploration. This subtask includes all efforts required to ready a site for and perform subsurface exploration but is not limited to:
 - 1. Review and comment on hazardous waste findings.
 - 2. Preparing traffic management plans and providing traffic control, if needed.
 - 3. Providing physical access for drilling and other exploration equipment (grubbing and clearing, grading, fence removal.).
 - 4. Review and comment on sampling, testing, and disposal of spoils.
 - c. Detailed Site Investigation for Hazardous Waste. All work needed to perform a detailed site investigation to fully characterize the contamination in the Project's corridor, if any. The on-site activities are similar in character to but less intrusive than the Geotechnical Subsurface Investigation above.
 - d. Utility locating to inform design including potholing, CCTV, and other investigation techniques. Assistance with other disciplines to inform design such as natural resources, historic compliance, site design, and real estate.
 - f. Miscellaneous additional site investigations as determined during the course of design, but anticipated to be of lesser scale than those described above.
3. Task 3. Utility Relocation Plans

Review and approve utility relocation plans and connections developed by the Project team for all work involved in the protection, removal and/or relocation of utility facilities necessary to construct the Project. Provide a full time, expert Utility Contractor as owner's representative to facilitate the design and approval process. Utility plans include but are not limited to the following services:

- a. Electrical
- b. Gas
- c. Storm Water
- d. Waste Water
- e. Telecommunications

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4. Task 4. Right of Way Certification

All work on behalf of the TRUST involved in developing and documenting the necessary legal instruments including, but not limited to, rights to enter , maintenance agreements, procurement actions, the permanent highway easement, right of way, and for deliverance of the Right of Way Certification if such certification is required by applicable law.

5. Task 5. Assistance with Preparation of Draft Design Package

The Contractor will assist in preparing the design packages for Trust related facilities replaced by the project. This activity also includes reaching consensus with the Project for resolution of all comments, so that the draft design package can be finalized. The draft design package includes but is not limited to the following subtasks:

a. Draft Roadway Plans:

1. Typical Cross Sections;
2. Roadway Layouts;
3. Profile and Super elevation Sheets;
4. Construction Details;
5. Contour Grading Plans;
6. Retaining Wall Plans;
7. Stage Construction and Detour Plans or Traffic Handling Plans;
8. Water Pollution Control Plans; and
9. Other Draft Roadway Plan Products.

b. Draft Highway Planting Plans:

1. Highway Planting Plans;
2. Plant List;
3. Irrigation Plans; and
4. Other Draft Highway Planting Plan Products
5. All other work, during the Draft Roadway Plan efforts, not defined or covered in other 230.10.

c. Draft Traffic Plans

d. Transportation Management Plan

EXHIBIT A
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e. Draft Structure Plans

1. Bridges;
2. Tunnels; and
3. Non-Standard Retaining Walls.

6. Task 6. Assistance with Environmental Impact Mitigations

Assist Caltrans in the coordination and review of all work that is required to accomplish environmental mitigation as determined in the Final Environmental Document and associated regulatory permits and agreements, and approved in the Record of Decision (ROD). Work involved in mitigating environmental impacts includes:

- a. Parking Mitigation;
- b. Historical Structures Mitigation;
- c. Archaeological and Cultural Mitigation; and
- d. Biological Mitigation.
- e. Transportation Management Plans

7. Task 7. Assist Caltrans with Development of and Review Final Design Package and Preconstruction Coordination.

This activity includes advance coordination of the Project's final design package to resolve/limit conflicts prior to seeking final reviews. Also included is circulation of final design package for review and comment as well as reaching consensus with the Project for resolution of all comments, so that the design package can be finalized. Sub tasks include but are not limited to review of:

- a. Final Plans for Constructability;
- b. Project for Final Permit Needs;
- c. Aesthetics;
- d. Final Traffic Management Plan (TMP);
- e. Specifications and Estimate;
- f. Geotechnical Design Elements and Specifications;
- g. Conformity with Environmental Commitments;
- h. Safety Review; and
- i. All Other Plan Specification and Estimates (PS&E) Reviews.

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8. Task 8. Construction Interfacing

Assistance with coordination, facilitation, and expediting the Project during the following anticipated construction activities:

- a. Public Outreach;
- b. Field Engineering;
- c. Construction Surveys;
- d. Archaeological Explorations;
- e. Biological Monitoring;
- f. Contractors' Operations;
- g. Field engineering for CCOs
Inspection of facilities to be turned over for TRUST ownership;
- h. Sampling and Testing of Materials; and
- i. General Construction Contract Administration.

8. CONTRACTOR REPORTS AND/OR MEETINGS

- a. The Contractor shall submit progress reports at least once a month.
- b. Progress reports shall identify the total number of hours worked by the Contractor's and Subcontractor's' personnel by use of the Caltrans Work Breakdown Structure (WBS) level element(s). The WBS is included in the Guide to Project Delivery Work plan Standards, which can be found at <http://www.dot.ca.gov/hq/projmgmt/guidance.htm>.
- c. The Contractor's Project Manager shall meet with the Caltrans Contract Manager as needed to discuss progress on the Agreement.

EXHIBIT B
Services Agreement

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon approval of services by the Contract Manager, and upon receipt and approval of the invoices, Caltrans agrees to compensate the Trust for actual expenditures incurred in accordance with **Attachment 1**. Incomplete or disputed invoices shall be returned to the Trust, unpaid, for correction.
- B. Invoices shall be itemized per the Cost Proposal in **Attachment 1** and shall include the Agreement Number, task items identified in the scope of work of this agreement dates, locations of services, name activities, hours for staff performing the services and shall be submitted in triplicate not more frequently than monthly in arrears to:

Department of Transportation
Program/ Project Management, MS 7B
Attention Romy Fuentes
111 Grand Avenue, Mail Station 7B
Oakland, CA 94623

2. Budget Contingency Clause

- A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this Agreement in any manner.
- C. It is mutually agreed that if the Congress or the State Legislature does not appropriate sufficient funds for the program, this Agreement shall be amended to reflect any reduction in funds.

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- D. The State has the option to terminate the Agreement under the 30-day termination clause or to amend the Agreement to reflect any reduction of funds. Trust shall be compensated for all work hereunder done prior to the effective date of termination.

3. Rates

- A. Rates for these services may be found on **Attachment 1** of this document.

4. Cost Principles

- A. The Trust agrees to comply with Federal procedures in accordance with Title 2 Code of Federal Regulations (CFR) Part 225, Cost Principles for State, Local, and Indian Tribal Governments (2 CFR 225).
- B. The Contractor also agrees to comply with Federal procedures in accordance with Office of Management and Budget Circular (OMB) A-102 Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments.
- C. The Contractor also agrees to comply with Federal procedures in accordance with Title 49 CFR Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR 18).
- D. Any costs for which payment has been made to Trust that are determined by subsequent audit to be unallowable under 2 CFR 225 or 49 CFR 18 are subject to repayment by Trust to State.

5. Excise Tax

The State of California is exempt from federal excise taxes. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

EXHIBIT C
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GENERAL TERMS AND CONDITIONS (GTC 307)

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute, but only so long as State shall continue payment under this Agreement during any dispute.
6. TERMINATION FOR CONVENIENCE: Either party may terminate this Agreement upon 30 days written notice to the other party. Contractor shall continue working and be compensated for all work done up until the thirtieth day after receiving or giving said notice. In the event of such termination the State may proceed with the work in any manner deemed proper by the State.
7. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
8. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow

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harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement. Compliance with this paragraph 8 is subject to paragraph 16 below.

9. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto. Compliance with this paragraph 9 is subject to paragraph 16 below.

10. TIMELINESS: Time is of the essence in this Agreement.

11. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

12. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California and the laws of the United States of America.

13. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.” Compliance with this paragraph 14 is subject to paragraph 16 below.

14. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

15. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353. Compliance with this paragraph 15 is subject to paragraph 16 below.

16. TRUST BOUND BY APPLICABLE LAW. With respect to any reference to California and federal law (including references to statutory, regulatory, and sub-regulatory requirements) contained in this Exhibit C, the parties agree that the Trust shall be bound thereto only to the extent required by applicable law.

EXHIBIT D
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SPECIAL TERMS AND CONDITIONS

1. Subcontractor

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor.
- B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.
- C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the State.
- D. Any substitution of subcontractors must be approved in writing by the Department's Contract Manager in advance of assigning work to a substitute subcontractor.

2. Confidentiality of Data

- A. Subject to the Freedom of Information Act, all financial, statistical, personal, technical, or other data and information relative to the Department's operations, which is designated confidential by the Department and made available to the Trust in order to carry out this Agreement, shall be protected by the Trust from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion or public hearing held by the Department relating to this Agreement shall not authorize the Trust to further disclose such information or disseminate the same on any other occasion.
- C. The Trust shall not comment publicly to the press or any other media regarding this Agreement or the Department's actions on the same, except to the Department's staff, Trust's own personnel involved in the performance of this Agreement, at public hearings, or in response to questions from a Legislative committee.

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- D. The Trust shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this Agreement without prior review of the contents thereof by the Department and receipt of the Department's written permission.
- E. All information related to the construction estimate is confidential and shall not be disclosed by the Trust to any entity, other than the Department.

3. Termination

- A. Either party reserves the right to terminate this Agreement without cause upon thirty (30) days written notice or immediately in the event of material breach. .
- B. In the event that the total contract amount is expended prior to the expiration date, the State may, at its discretion, terminate this contract with 30 days notice to the Trust.

4. Retention of Records/Audits

For the purpose of determining compliance with Public Contract Code Section 10115, et. seq. and Title 21, California Code of Regulations, Chapter 21 Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subcontractor and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the that are pertinent to the Agreement for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

5. Federal Lobbying Activities Certification

- A. The Contractor certifies, to the best of his or her knowledge and belief, that:
No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Trust, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or

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any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal Agreement, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any Cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal Agreement, Grant, loan, or cooperative agreement.

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- C. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- D. The Contractor also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractor shall certify and disclose accordingly.

6. Rebates, Kickbacks and Other Unlawful Consideration

The Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any state agency employee. For breach or violation of this warranty, the State shall have the right, in its discretion, to terminate the Agreement without liability, to pay only for the value of work performed, or to deduct from the Agreement price or otherwise recover the full amount of each rebate, kickback or other unlawful consideration.

7. Audit Review Procedures

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by Agreement shall be reviewed by the Chairperson of the Audit Review Committee (ARC). The ARC will consist of the Deputy Director, Audits & Investigations (Chairperson); Deputy Director of the functional Program area; the Chief Counsel, Legal Division, or their designated alternates; and if the Department chooses, two representatives of the

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Department's choosing, from private industry. The two representatives from private industry will be advisory in nature only and will not have voting rights. Additional members or their alternates may serve on the ARC.

- B. Not later than thirty (30) days after issuance of the final audit report, the Contractor may request a review by the ARC of unresolved audit issues. The request for review will be submitted in writing to the Chairperson of the ARC. The request must contain detailed information of the factors involved in the dispute as well as justifications for reversal. A meeting by the ARC will be scheduled if the Chairperson concurs that further review is warranted. After the meeting, the ARC will make recommendations to the appropriate Chief Deputy Director. The Chief Deputy Director will make the final decision for the Department. The final decision will be made within three (3) months of receipt of the notification of dispute.
- C. Neither the pendency of a dispute nor its consideration by Caltrans will excuse the Contractor from full and timely performance, in accordance with the terms of this Agreement.

8. Debarment and Suspension Certification

- A. The Trust's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the Contractor or any person associated therewith in the capacity of owner, partner, director, officer, or manager:
 - 1. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. does not have a proposed debarment pending; and
 - 4. has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to the Department of Transportation. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining bidder responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. During the performance of this Agreement, the Trust, for itself, its assignees and successors in interest (hereinafter referred to as the "Trust") agrees as follows:

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APPENDIX A

- A. **Compliance with regulations:** The Contractor shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation - Title 49 Code of Federal Regulations Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- B. **Nondiscrimination:** The Trust, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Trust shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractor, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
- C. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Trust's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
- D. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State Department of Transportation or any duly authorized representative of the Federal Government to be pertinent to ascertain compliance with such regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or any duly authorized Federal Agency as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. **Sanctions for Noncompliance:** In the event of the Trust's noncompliance with the nondiscrimination provisions of this Agreement, the State Department of

EXHIBIT D
Services Agreement

Transportation shall impose such Agreement sanctions as it or any Federal funding agency may determine to be appropriate, including, but not limited to:

- 1) Withholding of payments to the Contractor under the Agreement until the Contractor complies, and/or
- 2) Cancellation, termination or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: The Contractor shall include the provisions of paragraphs (A) through (F) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor will take such action with respect to any subcontractor or procurement as the State Department of Transportation or any Federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State Department of Transportation to enter into such litigation to protect the interest of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

| SOW | Tasks | Personnel | Hourly Rate | Total Hours | Cost | Hourly Rate Range |
|---------|---|---|-----------------------|------------------------------|---------------------------------------|--------------------------------------|
| Task 1 | Project Coordination and Public Information | Project Manager Project Asst Project Consultant Pub. Affairs/Real Estate | 85 65 180 85 | 1,900 1,400 350 214 | 161,500 91,000 63,000 18,190 | 75-140 63-90 80-182 69-140 |
| Task 2 | Site Investigation | Project Manager Utility Operations Environ/Hist. Staff | 85 65 85 | 100 100 200 | 8,500 6,500 17,000 | 73-88 59-65 78-85 |
| Task 4 | Right of Way & Other Legal Docs | Legal/Staff | 134 | 275 | 36,850 | 118-160 |
| Task 5 | Assistance with Prep of Draft Design Package (CCOs for both Contract 3 and 4) | Project Manager Planning Staff Environmental Staff Project Consultant | 85 85 85 180 | 300 800 200 800 | 25,500 68,000 17,000 144,000 | 87-145 53-102 73-111 60-182 |
| Task 6 | Assistance with Environmental Impact Mitigations (until separate Coop is established) | Environ/Hist. Staff | 85 | 800 | 68,000 | 61-117 |
| Task 7 | Review Final Design Package & Preconstruction Costs (CCOs and Contract 4) | Project Manager Planning Staff Project Consultant | 85 85 180 | 600 800 800 | 51,000 68,000 144,000 | 87-145 53-102 60-182 |
| Task 8 | Construction Management Oversight, Facilitation, and Assistance | Construction Managers Document controls Project Consultant | 85 85 180 | 2,700 1,000 2,100 | 229,500 85,000 378,000 | 65-90 80 60-182 |
| Task 8a | Utility Relocations and Oversight | Project Manager Utility Operations Project Consultants | 85 65 180 | 600 2,000 1,600 | 51,000 130,000 288,000 | 73-140 59-87 60-182 |
| | COLA Feb 2011 (3%) | | | | 32,243 | |
| | Contingency (10%) | | | | \$218,217 | |
| | Grand Totals | | | | \$2,400,000 | |

Presidio Trust annual Cost of Living Adjustment (COLA) is effective in February each year. One half of all charges from Feb 2011 to end of contract. This adjustment will increase the rates identified above. Increase would typically be in the 3-5% range.

Presidio rates are fully burdened
Consultants are their bill rates (no burden)

Task hours and total costs are estimates only. The Presidio Trust may reallocate costs and hours between or among tasks within the grand total amount of \$2,400,000. Contingency funds may be used on any or all tasks.