

***CENTRAL ARTERY/TED WILLIAMS TUNNEL
PROJECT PARTNERSHIP AGREEMENT***

This agreement is entered into by and between the Federal Highway Administration (“FHWA”), the Commonwealth of Massachusetts (“Commonwealth”) acting by and through the Executive Office of Transportation and Construction (“EOTC”) and the Massachusetts Highway Department (“MHD”), and the Massachusetts Turnpike Authority (“MTA”).

WHEREAS, pursuant to Massachusetts General Laws Chapters 16 and 81A, MHD and MTA, effective July 1, 1997, entered into the Central Artery/Ted Williams Tunnel Project Management Agreement, under which, among other things, MTA agreed to assume management of the Central Artery/Ted Williams Tunnel Project (“CA/T Project”) on behalf of MHD, and

WHEREAS, MTA is responsible for management and supervision of the CA/T Project and is currently using an Integrated Project Organization (“IPO”) through the engineering and management services of the joint venture of Bechtel Corporation and Parsons Brinkerhoff, Quade, and Douglas, Inc. (“B/PB”) and,

WHEREAS, MHD, acting through EOTC, is the recipient of Federal Highway Funds for the Commonwealth, and as such, oversees the obligation and distribution of federal funds to the CA/T Project, and performs audit functions consistent with said funding and,

WHEREAS, B/PB reports to and receives direction and supervision from the Commonwealth acting through MTA and in turn B/PB implements that direction throughout designated phases of the CA/T Project and,

WHEREAS, FHWA seeks to clarify its oversight role in implementing the CA/T Project and to establish new reporting and verification procedures necessary to ensure the Commonwealth’s accurate and full financial disclosures regarding the CA/T Project and,

WHEREAS, this agreement will be deemed to supplement the existing MHD/FHWA Massachusetts Division Office Project Oversight Agreement as it relates to the CA/T Project,

NOW IT IS THEREFORE AGREED, by and between the parties to this agreement:

FUNDING

1. Notwithstanding the Commonwealth's use of advance construction ("AC") authority the maximum level of Federal-aid highway obligation authority ("OA") and funding available for the CA/T Project shall not exceed \$8.549 billion.
2. In recognition of the CA/T Project's funding levels previously established in accepted finance plans and updates, and the Commonwealth's commitment to provide funds necessary to cover the recently disclosed cost increases, the maximum amount of new net advance construction authorizations on the CA/T Project shall not exceed \$222 million. This will provide an AC balance to improve cash flow management and allow the CA/T Project to recover funds resulting from underruns on existing contracts. In no case shall AC conversions for the CA/T Project be allowed which bring the OA total above the \$8.549 billion dollar cap.

RESPONSIBILITIES

3. To the extent allowable by law, all state and private entities associated with the CA/T Project shall provide any and all information and records to external monitoring agencies and shall provide timely access to records and persons employed on the CA/T Project. MHD and MTA shall be held accountable for compliance with this provision and a failure to provide timely and full access may be considered a violation of 49 CFR 18.42(e) with potential imposition of sanctions including but not limited to withdrawal of reimbursement and further availability of federal-aid funding. MHD will support the MTA's efforts to provide timely and full access of records.
4. The MHD, MTA and Massachusetts's Executive Office for Administration and Finance (A&F) shall provide to the FHWA all data with respect to independent audits of the CA/T Project including but not limited to O'Brien Kreitzberg and Deloitte Touche audits, and failure to provide such data will similarly be viewed as a potential violation of the regulations subject to potential imposition of sanctions. The FHWA will independently review these audits as well as those performed by other entities and coordinate needed action with appropriate parties.
5. The CA/T Project shall perform a total project forecast for the remaining years, in conjunction with the annual finance plan, beginning with the October 1, 2000 submission. The results of these reviews will be included in the project monthly management report ("PMM") and the annual finance plan updates.
6. The CA/T Project shall assure that the data contained in the PMM is modified to show potential cost exposures. The PMM shall also include such items as:
 - a. anticipated cost exposures in design and/or construction activities
 - b. projected labor rate increase
 - c. anticipated petroleum price increases or decreases
 - d. expected increases in operational costs such as insurance premiums, consultant support services, and materials, and

e. estimated and settled Right of Way (ROW) and construction claims.

7. The CA/T Project shall document projected delays to schedule milestones, identify the causes for these delays, and provide measures under consideration to remedy these delays. This information shall be provided on a timely basis and in a manner enabling FHWA to comment on these matters and coordinate in an appropriate way.

8. EOTC and MHD shall reach agreement in principle with the MARPA respecting the terms of a balanced statewide program. The meeting of this balanced statewide program, and concurrence of MARPA, will be a formal condition for granting STIP approval.

9. The Secretary of EOTC and the Commissioner of MHD shall certify that each CA/T Project finance plan and update is consistent with the balanced statewide program and the approved STIP. This certification shall be required as a condition of FHWA's acceptance of the finance plan and updates.

10. The CA/T Project shall ensure that the potential forecast for all CA/T Project elements be a best estimate of the completion cost, be maintained on a current basis for all CA/T Project elements, and be accurate and complete and unconstrained by policy directives regarding costs of the CA/T Project.

11. The CA/T Project shall submit an overall Budget vs. Potential Forecast Variance Report on a semi-annual basis to the FHWA beginning October 1, 2000. This report shall contain an explanation of any and all variances, by CA/T Project element, segregated into the following categories:

a. the components of the reported variances that are deemed to be firm to the point of requiring a corresponding revision to the budget of the affected CA/T Project element. These include but are not limited to, the value of actual contract awards (or executed change orders), approved scope changes to be incorporated during design, and expected settlement amounts for asserted construction claims.

b. the components of the reported variances that are deemed by the CA/T Project management to be subject to further adjustment by future management corrective action, or other alternative remedies.

c. the components of the reported variances that are deemed as being speculative in nature. These include speculative forecast variances that are difficult to quantify and price but which could have a positive or adverse effect on the future cost of the CA/T Project and/or the statewide program.

The FHWA, the EOTC, MHD and the MTA have caused this Agreement to be executed by their authorized officers as a sealed instrument effective as of _____, 2000.

FEDERAL HIGHWAY ADMINISTRATION

EXECUTIVE OFFICE
OF TRANSPORTATION
AND CONSTRUCTION

By: _____
Division Administrator

By: _____
Secretary

MASSACHUSETTS TURNPIKE
AUTHORITY

MASSACHUSETTS HIGHWAY
DEPARTMENT

By: _____
Chairman

By: _____
Commissioner

Approved as to form:

Acting General Counsel

By: _____
Associate Commissioner

By: _____
Associate Commissioner

By: _____
Associate Commissioner