



## Department of Justice

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### **BIG DIG MANAGEMENT CONSULTANT AND DESIGNERS TO PAY \$450 MILLION**

Boston, MA... **THE JOINT VENTURE OF BECHTEL/PARSONS BRINCKERHOFF, BECHTEL INFRASTRUCTURE CORP., and PB AMERICAS, INC. f/k/a PARSONS BRINCKERHOFF QUADE AND DOUGLAS, INC. (“BECHTEL/PARSONS BRINCKERHOFF”)**, the management consultant to the Central Artery/Tunnel Project (“the Big Dig”) has agreed to pay over \$407 million to resolve its criminal and civil liabilities in connection with the collapse of part of the I-90 Connector Tunnel ceiling and defects in the slurry walls of the Tip O’Neil tunnel. In addition, 24 Section Design Consultants—other contractors who worked on various parts of the project—have agreed to pay an additional \$51 million to resolve certain cost recovery issues associated with the design of the Big Dig. In total, the United States and the Commonwealth will recover \$458 million, including interest.

United States Attorney Michael J. Sullivan, Massachusetts Attorney General Martha Coakley, Theodore L. Doherty III, Special Agent in Charge of the New England Regional Office of the U.S. Department of Transportation, Office of Inspector General, Warren T. Bamford, Special Agent-in-Charge of the Federal Bureau of Investigation, New England Field Division and Colonel Mark Delaney, Superintendent of the Massachusetts State Police, announced today that **BECHTEL/PARSONS BRINCKERHOFF** has entered into a global agreement with the United States and the Commonwealth of Massachusetts to pay \$399 million to satisfy the aforementioned criminal and civil claims as well as certain miscellaneous cost recovery items.

The majority of the \$458 million will be held in a new state Central Artery/Tunnel Project Repair and Maintenance Trust Fund to provide for future non-routine repairs and maintenance of the Big Dig. It is anticipated that future recoveries from Big Dig contractors will also be deposited into this fund. Special state legislation was signed into law this month establishing the Fund. Including payments made pursuant to a plea agreement with Aggregate Industries in the summer of 2007, total recoveries related to the Big Dig now exceeds \$500 million.

The Agreement includes a statement of facts which details the basis for liability by **BECHTEL/PARSONS BRINCKERHOFF**. Additionally, the Agreement does not release **BECHTEL/PARSONS BRINCKERHOFF** from liability for any future catastrophic events which occur within the next ten years. Today’s Agreement provides that if a future catastrophic event relating to the CA/T Project causes more than \$50 million in damages, the federal and state governments retain the right to sue Bechtel and PB. For the next 10 years (through October 2017), Bechtel and PB waive their right to statute of limitations and other time-based procedural defenses to a catastrophic event claim. If the government sued based on a future catastrophic event, damages would be capped at \$100 million per event and the suit would be resolved by binding arbitration.

In addition, **BECHTEL** and **PARSONS BRINCKERHOFF** are also required to enact corporate compliance programs that are designed to prevent any similar conduct from occurring on future public construction projects. Bechtel and Parsons Brinkerhoff both agree to full reviews of their corporate business ethics and quality assurance programs, in order to strengthen those programs, improve ethics and quality training for employees, and prevent the types of lapses that occurred on the Big Dig from happening again in future projects.

The Agreement also requires **BECHTEL/PARSONS BRINCKERHOFF** to conduct an internal investigation and report to the federal and state governments if that investigation reveals any construction defects that might lead to the type of catastrophe that occurred on July 10, 2006 when part of the ceiling collapsed in the I-90 Connector Tunnel. **BECHTEL/PARSONS BRINCKERHOFF** has 180 days to submit that report. Finally, as noted above, the global resolution includes \$51 million in payments by SDCs and their insurers to address cost recovery claims.

The Agreement preserves the Federal Highway Administration's (FHWA) independent decision making authority and allows it to take any appropriate administrative actions against responsible parties. The Agreement precludes additional administrative action by the Commonwealth as long as the parent corporations comply with their respective compliance agreements.

The statement of facts included in the Agreement addresses the conduct of **BECHTEL/PARSONS BRINCKERHOFF** in four different areas. First, **BECHTEL/PARSONS BRINCKERHOFF** has acknowledged serious failures in its obligations to manage construction of the I-93 slurry walls. Particularly, **BECHTEL/PARSONS BRINCKERHOFF** allowed construction contractors, such as Modern Continental Construction, to place concrete for the slurry walls when construction specifications had not been met. **BECHTEL/PARSONS BRINCKERHOFF** failed to complete the required documentation noting these construction deficiencies and failed to have the deficiencies corrected. **BECHTEL/PARSONS BRINCKERHOFF** had knowledge of significant defects in the slurry walls and allowed those defects to go unrepaired or to be inadequately repaired, even after the I-93 tunnel was open to traffic and **BECHTEL/PARSONS BRINCKERHOFF** had certified the tunnel's safety and proper construction. **BECHTEL/PARSONS BRINCKERHOFF** has acknowledged that documents submitted to the Central Artery/Tunnel Project certifying the safety and substantial completion of the I-93 mainline tunnel were not true and accurate.

Second, **BECHTEL/PARSONS BRINCKERHOFF** has acknowledged certain failures regarding its oversight responsibilities concerning the construction of the ceiling in the portal area of the I-90 Connector Tunnel. **BECHTEL/PARSONS BRINCKERHOFF** observed epoxy bolts that were failing to withstand the load of the ceiling panels and were creeping out of the roof, but failed to adequately investigate the cause of such failures or to correct the problem. Similarly, **BECHTEL/PARSONS BRINCKERHOFF** has acknowledged that documents submitted to the Central Artery/Tunnel Project certifying the safety and substantial completion of the I-90 Connector Tunnel were not true and accurate.

Third, **BECHTEL/PARSONS BRINCKERHOFF** also acknowledges its failure to adequately fulfill its construction management obligations relating to contract modifications. Particularly, **BECHTEL/PARSONS BRINCKERHOFF** failed to assure the accuracy of contractors' records on time and material slips thereby resulting in overpayments to be made to contractors who

misrepresented the classification of apprentice workers as journeymen who were paid at higher rates. Three individuals employed by Massachusetts Electric Construction Company, a Big Dig contractor, have been convicted in federal court for submitting false claims in connection with overbilling apprentice labor at journeymen rates.

Fourth, **BECHTEL/PARSONS BRINCKERHOFF** has acknowledged its failure to meet its oversight obligations with respect to the delivery and use of non-specification in concrete Big Dig structures including the I-93 mainline tunnel slurry walls by Aggregate Industries Northeast Region, Inc. **BECHTEL/PARSONS BRINCKERHOFF** failed to institute concrete testing protocols at the construction site as well as in the materials lab to determine that all concrete delivered to the Project met CA/T specifications and was placed pursuant to CA/T procedures. Aggregate Industries pled guilty last summer in federal court to a criminal Information charging **AGGREGATE** with conspiracy to defraud the United States through the submission of false claims for payment. In May 2006, six managers of Aggregate were indicted for their participation in the scheme and are awaiting trial in federal court.

United States Attorney Michael J. Sullivan said, "Today's settlement with Bechtel/Parsons Brinckerhoff is continuing evidence of our commitment to vigorously investigate and prosecute those who have perpetrated a fraud on American taxpayers. It is critically important that federal and state tax dollars needed to fund important public works projects, like the Big Dig, are safeguarded against waste, fraud and corruption." Sullivan concluded, "Our work is not done. As I have said in the past, we will dedicate the resources and time necessary to complete a comprehensive review and investigation of the Big Dig Project. I can assure you that there will be no stone left unturned."

"We believe that today's global agreement is the best possible resolution for the Commonwealth and for the federal government. This investigation was complex and involved a number of complicated issues, and the collaboration among state and federal agencies in order to reach this outcome is unprecedented," said Attorney General Coakley. "All the while, we have been ever mindful that Milena Del Valle lost her life on July 10, 2006. Today's landmark agreement with Bechtel, Parsons Brinckerhoff, and other contractors allows us to resolve criminal and civil claims, to provide for future repairs, and to ensure the future safety of the Big Dig tunnels."

"It is important to ensure that taxpayers' investments in the construction and management of large transportation projects are protected from false claims that undermine public confidence in the integrity of our Nation's transportation system," said Theodore L. Doherty III, Special Agent-in-Charge, U.S. Department of Transportation's Office of Inspector General. "This settlement is the culmination of several investigations involving tireless work by Office of Inspector General agents and our law enforcement colleagues on the Big Dig Task Force, especially the U.S. Attorney's Office. We will continue to work with the Federal Highway Administration and the U.S. Department of Justice to promote the detection and prosecution of fraudulent schemes involving Federal transportation funds."

Warren T. Bamford, Special Agent-in-Charge of the Federal Bureau of Investigation, New England Field Division said, "Those who commit fraud and abuse against government programs will be aggressively investigated. These practices were completely irresponsible and an affront to the American public."

The investigation which led to today's Agreement was commenced after there was a breach in a slurry wall panel in the I-93 mainline tunnel in September 2004. At that time, the U.S. Attorney's Office established The Big Dig Task Force which has been largely staffed by investigators employed by the United States Department of Transportation, Office of Inspector General, the Federal Bureau of Investigation, the Massachusetts State Police, and by prosecutors employed by the Massachusetts Attorney General's Office and the United States Attorney's Office. In February 2005, the Massachusetts Attorney General's Office assumed responsibility for cost recovery efforts related to Big Dig matters. Immediately after the July 11, 2006 tunnel ceiling collapse, The Attorney General's Office commenced a criminal investigation of that fatal incident. The Attorney General's Office has worked closely with the Big Dig Task Force to reach today's Agreement with **BECHTEL/PARSONS BRINCKERHOFF**.

This matter was handled by Assistant U.S. Attorneys Fred M. Wyshak, Jr., Jeffrey M. Cohen, Anthony E. Fuller and Eugenia M. Carris of Sullivan's Public Corruption Unit as well as by Special Assistant Attorney General Paul Ware and more than a dozen attorneys and other staff from the Massachusetts Attorney General's Office. The case was investigated by the New England Regional Office of the U.S. Department of Transportation, Office of Inspector General, the Federal Bureau of Investigation, New England Field Division, as well as the Massachusetts State Police assigned to the Attorney General's Office.

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