MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER REGARDING COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 5024 AND GOVERNOR'S EXECUTIVE ORDER W-26-92

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 5024
AND GOVERNOR'S EXECUTIVE ORDER W-26-92

WHEREAS, the California Department of Transportation (Caltrans) currently controls and administers numerous buildings, bridges, facilities, roads, sites and structures, many of which are historical resources; and

WHEREAS, Caltrans has determined that its actions may affect state-owned historical resources; and

WHEREAS, Caltrans must comply with California Public Resources Code (PRC) Section 5024 et seq.; and

WHEREAS, in furtherance of the purposes and policies of the state's environmental protection laws, Caltrans is required by PRC 5024(a) and Governor's Executive Order W-26-92 (W-26-92), to formulate policies to preserve and maintain, when prudent and feasible, historical resources under its jurisdiction "in a spirit of stewardship and trusteeship for future generations," and is charged to the same end by its own departmental policies, and Caltrans is directed to consult with the California State Historic Preservation Officer (SHPO) in the development of these policies; and

WHEREAS, Caltrans, pursuant to W-26-92, has appointed the Division of Environmental Analysis Chief as the Caltrans Preservation Officer (CPO), whose responsibility is to ensure that state policies regarding the protection of its historical resources are carried out, and to direct the development and institution of feasible and prudent Caltrans policies and management plans to preserve and maintain its historical resources; and

WHEREAS, the CPO has delegated responsibility for compliance with PRC 5024 and W-26-92 to the Division of Environmental Analysis Cultural Studies Office Chief (CSO); and

WHEREAS, Caltrans has established policies and directives for the effective stewardship of state-owned historical resources, and proposes under this Memorandum of Understanding (MOU) to establish procedures for the adequate fulfillment of its stewardship responsibilities under PRC 5024 et seq. and W-26-92; and

WHEREAS, Caltrans maintains, and will continue to maintain, cultural resources units in Headquarters and in each of its districts that are staffed by professionally qualified cultural resources staff; and

WHEREAS, Caltrans is required under PRC 5024 to consult with the SHPO regarding its inventory of state-owned historical resources; and potential effects to state-owned historical resources in the Master List of Historical Resources (Master List) that are eligible for or listed in the National Register of Historic Places (NRHP) or eligible for or registered as California Historical Landmarks (CHL); and to notify SHPO of potential effects to state-owned non-structural historical resources that are eligible for listing in the NRHP or eligible for registration as a CHL; and

WHEREAS, SHPO is authorized under PRC 5024, 5024.5 and 5024.6 to monitor the implementation of actions proposed by any state agency and to review any publicly funded projects undertaken by other governmental agencies that may affect state-owned historical resources**;** and

WHEREAS, Caltrans and SHPO concur that this MOU is intended to promote Caltrans' stewardship of state-owned historical resources by reducing paperwork, increasing efficiency, providing for effective and timely coordination between Caltrans professionally qualified cultural resources and project management staff;

NOW, THEREFORE, Caltrans and SHPO agree that Caltrans shall carry out its responsibilities for stewardship of its state-owned historical resources under PRC 5024 et seq. and W-2-26-92 in accordance with the terms of this MOU.

STIPULATIONS

I. POLICY

Caltrans shall ensure that, to the extent prudent and feasible, historical resources under its jurisdiction are preserved, rehabilitated, and maintained for the "inspiration and benefit of the people," as outlined in W-26-92 Section 1(2), and as required under PRC 5024.

II. APPLICABILITY

A. This MOU shall apply to all projects, activities and permits that affect state-owned cultural resources.

B. Except as specified in the recitals above, this MOU does not negate or supersede any agreements between Caltrans and Indian tribes in effect at the time the MOU is executed.

III. FEDERAL UNDERTAKINGS THAT INCLUDE STATE-OWNED HISTORICAL RESOURCES

When a federal undertaking includes state-owned historical resources within the undertaking's Area of Potential Effects and the documentation is submitted to SHPO pursuant to Section 106 of the National Historic Preservation Act of 1966 (Section 106), as amended and its implementing regulations at 36 Code of Federal Regulations (CFR) Part 800, or a valid programmatic agreement (Section 106 PA)[1] that has been

[1] The current Section 106 PA, *First Amended Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the*

implemented pursuant to 36 CFR Part 800.14, Caltrans shall use the Section 106 PA in its entirety and notify the SHPO that there are state-owned historical resources for which Caltrans is concurrently complying with PRC 5024. The SHPO shall use the information and documentation provided for the federal undertaking in its review and comments under PRC 5024.

IV. DEFINITIONS

For purposes of this MOU, the definitions provided in PRC 5020.1 (a), (f), (h) through (l), (o) and (p) shall apply. In addition, the following definitions shall apply:

A. Certified Local Government (CLG): As defined in PRC 5020.1(b), a CLG "means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966."

B. Historical Resources Compliance Report (HRCR): the technical report that Caltrans uses to document compliance with state environmental law, including CEQA, PRC 5024 and W-26-92, for state projects and activities. The document constitutes the findings for these projects and activities, and serves as the documentation for consultation with the SHPO under PRC 5024.

C. Indian Tribes: The terms "Tribe," "California Indian Tribe," and "tribal" include all Federally Recognized Tribes and non-federally recognized tribes pursuant to the California Native Heritage Commission's "SB18" list.[2]

D. List of Adverse Effects: This list, as cited in PRC 5024(b) and PRC 5024.5, includes alteration of the original or significant historical features or fabric, or the transfer, relocation, or demolition of a historical resource on the Master List.

E. Master List of Historical Resources (Master List): This list is maintained by the SHPO pursuant to PRC 5024 and includes state-owned historical resources:[3] that are listed in the NRHP; are registered as a CHL; and state-owned historical buildings, structures and objects that were officially determined eligible for inclusion in the NRHP pursuant to 36 CFR 800.4(c)(2), 36 CFR60 or 36 CFR 63; or for eligible for registration as a CHL pursuant to PRC 5024(d) or 5020.4(a)(1). The Master List does not include archaeological sites or non-structural resources and sites that were officially determined eligible for inclusion in the NRHP or for registration as a CHL, nor does the Master List include any state-owned resources that are assumed eligible for the NRHP or as a CHL only for purposes of a project or activity.

F. Project Area Limits (PAL): the area, or areas, within which a state project or activity may cause changes in the character or use of historical resources, should any be present. When a project or activity subject to compliance with PRC 5024 is concurrently a federal

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National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California.

[2] Governor's Executive Order B-10-11.

[3] State-owned historical resources include buildings, structures, archaeological sites, objects, historic districts, as well as other non-structural sites, such as tree rows, landscapes.

undertaking subject to Section 106, the Area of Potential Effects shall be considered a PAL.

G. *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation:* As defined in the California Code of Regulations (CCR) Title 14, Chapter 11.5, Appendix A, these standards and guidelines are part of the *Secretary of the Interior Standards and Guidelines for Historic Preservation Projects* (36 CFR 67), with accompanying interpretive guidelines. The standards and guidelines for archaeology and historic preservation contain "technical advice about archeological and historic preservation activities and methods" (CCR Title 14, Chapter 11.5, Appendix A).

H. Standard Environmental Reference: The Caltrans Standard Environmental Reference[4] (SER), which is posted on line, contains Caltrans policy and standards for use by Caltrans and local agencies in planning, preparing, evaluating, and submitting environmental documents for transportation projects in compliance with federal and state environmental laws. The SER Volume 2[5] and its subsequent revisions and editions are incorporated herein by reference.

I. State-owned Cultural Resource: any tangible or observable evidence of past human activity under Caltrans' jurisdiction, *regardless of historical significance*, found in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values.

J. State-owned Historical Resource: any building, structure, landscape, archaeological site, area or other non-structural resource under Caltrans' jurisdiction that is eligible for or listed in the National Register of Historic Places, or is registered in or eligible for registration in as a California Historical Landmark that are under Caltrans' jurisdiction.

V. PROFESSIONAL QUALIFICATION STANDARDS

All actions prescribed by this MOU that involve the identification, evaluation, analysis, recordation, treatment, monitoring, or disposition of state-owned historical resources, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or subject to the approval of Caltrans staff who meet the Professional Qualifications Standards in the appropriate discipline as set forth in Attachment 1 to this MOU. Hereinafter, such Caltrans staff shall be referred to as Professionally Qualified Staff (PQS). However, nothing in this stipulation may be interpreted to preclude Caltrans or any agent or contractor thereof from using the services of persons who do not meet the standards, as long as their activities are overseen by Caltrans PQS in the appropriate discipline.

[4] The Caltrans Standard Environmental Reference may be accessed at http://www.dot.ca.gov/ser/
[5] Volume 2 of the SER may be accessed at http://www.dot.ca.gov/ser/vol2/vol2.htm.

VI. DELEGATION OF CALTRANS ACTIONS UNDER THIS MOU

A. Responsibility

Consistent with the requirements of PRC 5024 and W-26-92, Caltrans remains legally responsible for ensuring that the terms of this MOU are carried out and for all findings and determinations made pursuant to this MOU.

B. Actions under PRC 5024(a), (b) and (e) and W-26-92

The CSO, with the assistance of the Caltrans Districts and in consultation with the SHPO and the State Historical Building Safety Board (SHBSB) as appropriate, shall carry out the following actions:

1. Develop and institute feasible and prudent policies and a management plan to preserve and maintain state-owned historical resources under Caltrans jurisdiction. In consultation with the SHPO, periodically review and revise as appropriate Caltrans historical resources management plans and policies.
2. For purposes of developing management plans and policies, state-owned historical resources are those defined in Section IV.J this MOU and those that are listed or determined eligible for listing in the California Register of Historical Resources.
3. Annually update the Caltrans inventory of state-owned historical resources under Caltrans jurisdiction.
4. Provide an annual report to the SHPO on Caltrans progress in completing inventories, management plans, and policies, in accordance with Stipulation XIX.E.2 below.

C. Actions under PRC 5024(b), PRC 5024(f), and PRC 5024.5.

Caltrans Districts shall ensure that the following steps are carried out with respect to projects and activities covered by this MOU. Each Caltrans District Director, or where Caltrans may deem it appropriate, the Caltrans Director, shall be responsible for ensuring that PQS in the appropriate discipline carry out the following actions:

1. Determine under PRC 5024 whether the project or activity is a type of activity that has the potential to affect state-owned historical resources.
2. Request expedited consultation, as appropriate.
3. Determine the project or activity's PAL, identify and evaluate properties within the PAL in order to determine their eligibility for the NRHP and/or as a CHL, and determine whether state-owned historical resources may be affected by the project or activity.
4. Apply the list of adverse effects to make a determination as to whether there is an adverse effect to a state-owned historical resource on the Master List.
5. Make a finding of "No State-owned Historical Resources Affected" when there are either no state-owned historical resources in the PAL, or the project or activity will have no effect on such resources.

6. Propose a finding of "No Adverse Effect with Standard Conditions" where imposing one or more of the standard conditions set forth in Stipulation X.B.1 will avoid adverse effects.
7. Propose a finding of "No Adverse Effect" with conditions other than the standard conditions" set forth in Stipulation X.B.1 that will avoid adverse effects.
8. Propose a finding of "No Adverse Effect" when the proposed project or activity will avoid adverse effects absent conditions.
9. Propose a finding of "Adverse Effect."

VII. SCREENED PROJECTS AND ACTIVITIES EXEMPT FROM FURTHER REVIEW

In consultation with the SHPO, Caltrans has identified classes of projects and activities that will be addressed in accordance with Attachment 2 to this MOU. The projects and activities classified in Attachment 2 as Screened Projects and Activities will require no further review under this MOU when the requirements of Attachment 2 have been satisfactorily completed and it is determined that no feature of the project or activity necessitates further review pursuant to this MOU.

VIII. IDENTIFICATION AND EVALUATION OF STATE-OWNED HISTORICAL RESOURCES

A. Project Area Limits

Caltrans PQS shall determine and document the PAL for projects and activities covered by this MOU in accordance with Attachment 3 to this MOU. Nothing in this paragraph or in Attachment 3 shall preclude Caltrans from consulting with the SHPO on determining and documenting a PAL. Caltrans may establish a study area for use in conducting identification activities until a PAL can formally be delineated.

B. Identification

Caltrans shall identify state-owned historical resources that may be located within a project or activity's PAL. Identification of state-owned historical resources shall be consistent with the policies and standards in the SER Volume 2, and should be consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*, SHPO guidance, National Register Bulletins and any other guidance, methodologies, agreements, or protocols that the signatories agree should be used to identify state-owned historical resources. Nothing in this paragraph precludes seeking consistency with any other pertinent guidance such as that provided by Indian tribes or other state agencies. Caltrans Districts shall make a reasonable and good faith effort to identify and consult with any affected Indian tribes to assist in identifying state-owned cultural resources to which they may attach religious and cultural significance that may be located within a project or activity's PAL or study area.

C. Evaluation

1. Cultural Resources Exempt from Evaluation: Attachment 4 to this MOU lists the cultural resources that the signatories agree shall be exempt from evaluation provided the Caltrans PQS in the appropriate discipline determines all terms and conditions in Attachment 4 are satisfactorily met. However, in accordance with PRC 5024(b), state-owned resources identified as Property Types 3 through 7 in Attachment 4 to this MOU must be inventoried by recording the resource and its exempted resource type in the Caltrans Cultural Resources Database (CCRD), as well as identifying the resource and exempted resource type in the State-Owned Historical Resources Findings section of the HRCR. All other identified state-owned cultural resources shall be evaluated in accordance with Stipulation VIII.C.2.
2. Evaluating Identified Cultural Resources: Caltrans shall evaluate the historic significance of identified state-owned cultural resources using the NRHP[6] and CHL[7] eligibility criteria and following the guidance outlined in Stipulation VIII.B above. During the evaluation process, Caltrans Districts shall make a reasonable and good faith effort to identify and consult with any interested party as outlined in the SER Volume 2.
3. Special Consideration for Certain Archaeological Resources: If archaeological resources within an project or activity's PAL are protected from any potential effects by establishment and effective enforcement of an Environmentally Sensitive Area (ESA), as described in Attachment 5 to this MOU, the signatories agree that Caltrans may consider such archaeological resources to be NRHP and/or CHL eligible for the purposes of that project or activity. Caltrans may, as appropriate, consult with Indian tribes that may attach religious or cultural significance to the state-owned historical resource to determine whether the resource has values that may qualify it as NRHP eligible under Criterion A, B, or C in addition to, or instead of, Criterion D or as CHL eligible under Criterion 1, 2 or 3. This consideration of NRHP and CHL eligibility without formal evaluation shall not extend to other projects or activities whose PAL includes the archaeological resource, unless through consultation Caltrans and the SHPO agree otherwise.
4. Eligibility Considerations: Subject to CSO approval, Caltrans Districts may consider state-owned cultural resources NRHP and/or CHL eligible for the purposes of a project or activity only when special circumstances preclude their complete evaluation, such as large resource size, or limited potential for effects.
5. Previously Evaluated Cultural Resources: When previously evaluated state-owned cultural resources are identified within a project or activity's PAL, Caltrans PQS shall review those previous evaluations to determine whether they are still valid or re-evaluate as appropriate. Caltrans Districts may, as appropriate, consult with Indian tribes and other interested parties during the review and re-evaluation

[6] PRC 5020.1(l) and PRC 5024.1(c)
[7] PRC 5020.1(i) and 5021

process when cultural resources to which those tribes may attach religious or cultural significance are involved. The passage of time, changing perceptions of significance, eligibility under previously unconsidered NRHP criteria, new information, incomplete or erroneous prior evaluation, and errors of fact warrant such review and may require Caltrans to re-evaluate the cultural resources.

6. Consulting the SHPO: The Caltrans District shall submit the documentation such as the HRCR containing the conclusions of NRHP and/or CHL eligibility and supporting documentation to the SHPO for comment, with concurrent submittal to CSO.
    a. If the SHPO has not responded to Caltrans within 30 calendar days after receipt, Caltrans may either extend the review period in consultation with the SHPO or proceed to the next step prescribed by this MOU, based upon Caltrans' conclusion of NRHP and/or CHL eligibility. Confirmation of date of receipt as the basis for determining the start of the 30-day review period may be obtained through the SHPO database, a mail delivery receipt, or written or documented oral communication from the SHPO. If the 30-day period expires without SHPO comment or agreement to extend the review period, the Caltrans District may proceed to the next step prescribed by this MOU upon notification to the SHPO and CSO via e-mail or other written communication.
    b. Disagreements regarding the NRHP and/or CHL eligibility of cultural resources shall be governed by PRC 5024, except in the event that SHPO disagrees, the Caltrans District shall promptly notify CSO. The CSO and the Caltrans District shall consult with SHPO to resolve the disagreement within 30 days. If the disagreement is resolved, the agreed upon finding shall stand and Caltrans shall proceed to the next step in accordance with those requirements prescribed by this MOU. If the disagreement is not resolved, the SHPO's determination shall be final and binding for purposes of PRC 5024 and 5024.5 only.
7. Notifying Indian tribes and interested parties: When a Caltrans District has been in consultation with an Indian tribe or interested parties on the NRHP and CHL eligibility of a property, the Caltrans District shall notify and provide documentation to the Indian tribe or interested parties of Caltrans' eligibility conclusion concurrent with submittal to the SHPO, unless the tribes or interested parties have indicated they do not wish to receive such documentation.

IX. FINDINGS OF EFFECT

A. Finding of No State-Owned Historical Resources Affected Pursuant to PRC 5024(f) and PRC 5024.5

1. Where Caltrans has consulted with Indian tribes or interested parties concerning the NRHP or CHL eligibility of state-owned historical resources, Caltrans shall consult with those Indian tribes or other interested parties on the potential effects of the project or activity. Caltrans shall take their views into account in making its findings.

2. If the Caltrans District finds either that no state-owned historical resources are present, or that state-owned historical resources are present but the project or activity will have no effect on them, the Caltrans District shall document the finding in the HRCR and retain a copy in the District file in accordance with Stipulation XVII. The Caltrans District, as appropriate, shall notify any interested parties cited in Stipulation IX.A.1 of the finding and make documentation available to them unless they have indicated that they do not wish to receive such documentation. Following satisfactory completion of these steps, no further review pursuant to this MOU is required.

B. Finding of State-Owned Historical Resources Affected Pursuant to PRC 5024(f) and PRC 5024.5

If the Caltrans District finds there are state-owned historical resources that will be affected by the project or activity, the Caltrans District shall comply with Stipulation X.

X. ASSESSMENT OF EFFECTS PURSUANT TO PRC 5024(f) AND PRC 5024.5

A. Assessment of Effects

The Caltrans District shall assess whether a project or activity may adversely affect a state-owned historical resource by using the list of adverse effects defined in Stipulation IV.D, will propose findings pursuant to Stipulations X.A, X.B, and X.C. The Caltrans District shall take into account the views provided by any Indian tribe and other interested parties or the public.

B. Finding of No Adverse Effect

Pursuant to PRC 5024(f) and PRC 5024.5 Caltrans and SHPO agree that in order to avoid adverse effects to state-owned historical resources, the Caltrans District may propose a finding of “No Adverse Effect with Standard Conditions” (FNAE-SC) when the appropriate standard conditions are imposed in accordance with Attachment 5 to this MOU and the finding is documented in the HRCR. The Caltrans District may propose a finding of “No Adverse Effect” (FNAE) if: none of the project or activity’s anticipated effects constitute an adverse effect identified in the list of adverse effects defined in Stipulation IV.D; non-standard conditions are imposed to avoid adverse effects; or the Caltrans District has developed a plan for managing any post-review discoveries that includes decision thresholds and procedures that would be implemented in accordance with Stipulation XIV.

1. Finding of No Adverse Effect with Standard Conditions (FNAE-SC)

The Caltrans District shall submit the HRCR containing its proposed finding and supporting documentation to CSO for review. The Caltrans District shall concurrently provide documented notification of the proposed finding to any Indian Tribe or other interested parties that have expressed views regarding potential effects to state-owned historical resources. If within 15 calendar days of receipt CSO does not object to the proposed FNAE-SC finding, the project or activity shall not be subject to further

review under this MOU. CSO shall provide summary notification to the SHPO of all FNAE-SC findings in accordance with Stipulation XIX.E.2.

a. Environmentally Sensitive Areas (ESAs): An FNAE-SC-ESA is appropriate when a project or activity's effects to state-owned historical resources, or properties considered to be eligible pursuant to Stipulation VIII.C.3 or 4, will be avoided by designation and enforcement of ESAs as described in Attachment 5 to this MOU. Caltrans will consult with Indian tribes that attach religious or cultural significance to the property or other interested parties, if any, to determine whether an ESA will adequately protect those values without other conditions or mitigation. The results of that consultation will determine whether a FNAE-SC-ESA applies.

b. *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (1995), Weeks and Grimmer *(SOIS)*[8]: An FNAE-SC-SOIS is appropriate when a project or activity's effects to a state-owned historical resource may be considered not adverse if the work is consistent with the *SOIS*, and is carried out in accordance with Attachment 5 to this MOU.

c. Designation of a state-owned historical resource under a Certified Local Government ordinance (FNAE-SC-CLG Designation) for the transfer or relinquishment of a state-owned historical resource: An FNAE-SC-CLG Designation is appropriate and the effects of the action may be considered not adverse when Caltrans transfers or relinquishes to a local agency or private owner, a state-owned historical resource that has been designated by a CLG under its preservation ordinance—whether the resource is individually designated or is a contributing element of a district—and that ordinance provides protection of the resource's character-defining features. When Caltrans nominates its state-owned historical resource for local designation under a CLG preservation ordinance, such designation must be completed prior to Caltrans transferring or relinquishing that resource.

d. Additional Standard Conditions: CSO may propose the adoption of additional standard conditions that have proven effective in avoiding adverse effects to state-owned historical resources. CSO shall provide documentation supporting the proven effectiveness to the SHPO for review. Attachment 5 may be revised to include any new standard condition in accordance with Stipulation XIX.C.2.

2. Finding of No Adverse Effect (FNAE)

a. **State-owned historical resources not on the Master List.** When Caltrans proposes a finding of No Adverse Effect (FNAE) other than an FNAE-SC specified in Stipulation IX.B.1, the Caltrans District shall submit the HRCR containing its proposed finding and supporting documentation to CSO for review. If within 15 calendar days of receipt CSO does not object to the proposed FNAE, the project or activity shall not be subject to further review

[8] CEQA Guidelines at PRC 15064.5(b)(3)

under this MOU. CSO shall provide summary notification to the SHPO of these findings in accordance with Stipulation XIX.E.2.

b. When there are disagreements between the Caltrans District and CSO regarding an FNAE, the CSO shall promptly notify SHPO to resolve the disagreement within 30 days. If the disagreement is resolved, the agreed upon finding shall stand and Caltrans shall proceed to the next step in accordance with those requirements prescribed by this MOU. If the disagreement is not resolved, the finding shall be considered adverse and Caltrans shall the procedure set forth in Stipulation X.C.

c. **State-owned historical resources on the Master List**. When Caltrans proposes a FNAE other than an FNAE-SC specified in Stipulation X.B.1, the Caltrans District shall submit the HRCR containing its proposed finding and supporting documentation to CSO for review. If within 15 calendar days of receipt CSO does not object to the proposed FNAE, CSO shall consult with the SHPO pursuant to PRC 5024.5.

d. If within 30-calendar days of receipt, SHPO does not object to the "No Adverse Effect" finding, the project or activity shall not be subject to further review under this MOU. CSO and the SHPO may agree to extend the 30-day time frame for SHPO review. Confirmation of date of receipt as the basis for determining the start of the 30-day review period may be obtained through the SHPO database, a mail delivery receipt, or written or documented oral communication from the SHPO. If the 30-day period expires without SHPO comment or agreement to extend the review period, Caltrans may move forward upon notification to the SHPO via e-mail or other written communication, and the project or activity shall not be subject to further review under this MOU. Disagreements or objections to a finding of "No Adverse Effect" will be addressed in accordance with Stipulation X.F.

3. Re-assessment of Effects: If the project or activity will not be implemented as proposed in relation to any state-owned historical resource, Caltrans will re-open consultation under Stipulation X of this MOU.

C. Finding of Adverse Effect and Proposed Mitigation Measures

Pursuant to PRC 5024(f) and PRC 5024.5, Caltrans and SHPO agree that when adverse effects to state-owned historical resources cannot be avoided, the Caltrans District may propose a finding of "Adverse Effect" (FAE).

1. Finding of Adverse Effect and Mitigation through use of Standard Mitigation Measures (FAE-SMM)

State-owned archaeological sites that are not on the Master List (i.e. assumed eligible, determined eligible for listing in the NRHP or eligible for registration as a CHL): When adverse effects to these resources cannot be avoided pursuant to Stipulation X.B, the Caltrans District may propose a finding of "Adverse Effect with Standard Mitigation Measures" (FAE-SMM). This finding may be used: when the appropriate SMMs described in Attachment 6 to this MOU are imposed, or when the Caltrans District has developed a plan for managing any post-review discoveries that includes

decision thresholds and procedures that would be implemented in accordance with Stipulation XV. The Caltrans District may, as appropriate, consult with the Indian tribes that ascribe religious or cultural significance to affected state-owned historical resources or other interested parties in determining appropriate measures to mitigate adverse effects.

a. Pursuant to PRC 5024(f), the Caltrans District shall submit to CSO the HRCR containing its FAE-SMM with documentation supporting the proposed finding in accordance with Stipulation XVII.

b. If within 30-calendar days of receipt CSO does not object to the proposed FAE-SMM, the project or activity shall not be subject to further review under this MOU. CSO shall provide summary notification to the SHPO of these findings in accordance with Stipulation XIX.E.2. The Caltrans District shall provide notice of the finding to Indian tribes or other interested parties, as appropriate.

2. Finding of Adverse Effect and Mitigation

   a. **State-owned historical resources not on the Master List**. Where adverse effects to a state-owned historical resource cannot be avoided pursuant to Stipulation X.B, the Caltrans District shall propose to CSO a finding of "Adverse Effect" (FAE) and shall take into account the views of Indian tribes and other interested parties, as appropriate. The Caltrans District shall submit to CSO the HRCR containing its FAE and documentation supporting the proposed finding in accordance with Stipulation XVII.

      i. Upon receipt CSO shall have 30 calendars days to review the FAE. If within 30 calendar days of receipt CSO does not object to the proposed FAE, the project or activity shall not be subject to further review under this MOU. CSO shall provide summary notification to the SHPO of these findings in accordance with Stipulation XIX.E.2.

      ii. If the CSO has not responded to the District within 30-calendar days after receipt, the District may either extend the review period in consultation with CSO or move forward with the project or activity. Documentation of date of receipt as the basis for determining the start of the 30-day review period may be obtained through a mail delivery receipt or other documented communication from CSO. If the 30-day period expires without CSO comment or agreement to extend the review period, the District may move forward upon notification to CSO via e-mail or other written communication, and the project or activity shall not be subject to further review under this MOU.

   b. **State-owned Historical Resources on the Master List**. Where adverse effects to a state-owned historical resource on the Master List cannot be avoided pursuant to Stipulation X.B, the Caltrans District shall propose to CSO a finding of "Adverse Effect" (FAE) and shall take into account the views of Indian tribes and other interested parties, as appropriate. The Caltrans District shall submit to CSO the HRCR containing its FAE and

documentation supporting the proposed finding in accordance with Stipulation XVII.

i. Upon CSO's agreement with the finding, CSO shall forward the FAE and supporting documentation to the SHPO. The Caltrans District shall provide notice of the finding to Indian tribes or other interested parties, as appropriate, and shall assist CSO with the mitigation of adverse effects.

ii. The SHPO shall have 30 days to review the FAE. If the SHPO has not responded to Caltrans within 30-calendar days after receipt, Caltrans may either extend the review period in consultation with the SHPO or move forward with the project or activity. Documentation of date of receipt as the basis for determining the start of the 30-day review period may be obtained through the SHPO database, a mail delivery receipt, or other documented communication from the SHPO. If the 30-day period expires without SHPO comment or agreement to extend the review period, Caltrans may move forward upon notification to the SHPO via e-mail or other written communication, and the project or activity shall not be subject to further review under this MOU.

D. Concurrent Documentation and Consultation:

The determination of eligibility, assessment of effect and consultation on mitigating adverse effects may be combined into one HRCR. However, while CSO and SHPO review times may be concurrent, SHPO review times for eligibility, as outlined in Stipulation VIII.C.6, and findings of effect and proposed mitigation measures, as outlined in Stipulations X.B.2 and X.C, run sequentially.

E. Public Interest or Controversy

When the effects to state-owned historical resources are highly controversial or there is substantial public interest in the project or activity's effects on these resources, the CSO shall forward the finding of no adverse effect or adverse effect with proposed mitigation to SHPO for notification under PRC 5024(f) or for concurrence under PRC 5024.5, as applicable and request SHPO's comments. The SHPO shall have 30 days to review the finding. If the SHPO has not responded to Caltrans within 30-calendar days after receipt, Caltrans may either extend the review period in consultation with the SHPO or move forward with the project or activity. Documentation of date of receipt as the basis for determining the start of the 30-day review period may be obtained through the SHPO database, a mail delivery receipt, or other documented communication from the SHPO. If the 30-day period expires without SHPO comment or agreement to extend the review period, Caltrans may move forward upon notification to the SHPO via e-mail or other written communication, and the project or activity shall not be subject to further review under this MOU.

F. Resolving Disagreements Regarding Findings of Effects

When disagreements that may arise within the review periods established under the terms of Stipulation X, CSO shall consult with the SHPO for no more than 30-calendar days to resolve the disagreement. For state-owned historical resources on the Master List, if at

any time during this consultation period, the SHPO determines that the disagreement cannot be resolved through such consultation, the SHPO, pursuant to PRC 5024.5(d) shall request the Office of Planning and Research to mediate the disagreement.

XI. PHASED APPROACH TO IDENTIFICATION, EVALUATION, AND FINDINGS OF EFFECT

A. Subject to CSO approval, the Caltrans District may approve the phasing of identification, evaluation, and application of the list of adverse effects defined in Stipulation IV.D for projects or activities covered by this MOU. As specific aspects or locations of an alternative are refined or access gained, the Caltrans District shall proceed with the identification and evaluation of state-owned historical resources and with application of the list of adverse effects in accordance with applicable provisions of this MOU.

B. The CSO may approve phasing, evaluation of a potential state-owned historical resource, and/or effects determination until after a CEQA decision document is signed but prior to implementation of the project or activity if: 1) the Caltrans District has established that a "No State-owned Historical Resources Affected" or "No Adverse Effect" finding is likely based on documentation of identification and evaluation efforts within the accessible portion(s) of the PAL and background research on the inaccessible portion(s); 2) the Caltrans District includes in the documentation a plan for completion of identification and evaluation that includes a schedule and provisions for notification or consultation with CSO and SHPO and adequate performance measures to ensure that any potential effects to the potential state-owned historical resource is adequately mitigated. Consultation with SHPO on this finding shall follow the process established in Stipulation X.B.2.

XII. NATIVE AMERICAN HUMAN REMAINS AND RELATED CULTURAL ITEMS

If human remains or associated items are encountered within the Caltrans Right-of-Way or on property under Caltrans jurisdiction during archaeological surveys or excavations or during construction activities, Caltrans shall follow California Health and Safety Code Section 7050.5 and PRC 5097.98. The Caltrans District shall consult with the most likely descendant(s), as identified by the California Native American Heritage Commission (NAHC), on the sensitive and dignified treatment and disposition of Native American human remains and associated items.

XIII. CURATION

The Caltrans District shall ensure that cultural materials and records resulting from excavations or surface collections on Caltrans land are curated in accordance with the *Secretary of the Interior's Standards for Archaeological Documentation and the California Guidelines for the Curation of Archaeological Collections* (1993). Disposition of Native American human remains and associated items shall be addressed in consultation with the most likely descendent(s) designated by California's NAHC pursuant to PRC 5097.98. The disposition of sacred objects and objects of cultural

patrimony, as defined by the Native American Graves Protection and Repatriation Act (NAGPRA), shall be addressed in consultation with Indian tribe(s), consistent with 43 CFR 10 Subpart B.

XIV. DISCOVERIES WITHOUT PLANNING

A. Planning for Subsequent Discoveries

When Caltrans' identification efforts in accordance with Stipulation VIII.B indicate that state-owned historical resources are likely to be discovered during implementation of a project or activity, the Caltrans District shall include in any finding of No Adverse Effect or HRCR and in the Environmental Commitment Record a plan for treatment of such historical resources, should they be discovered. The Caltrans District shall notify any Indian tribe that may attach religious or cultural significance to potentially affected properties, or any other interested party that may have a demonstrated interest in potentially affected cultural resources, and take their concerns into account in developing, modifying, and implementing the plan. The plan will be implemented as originally proposed, or modified as necessary as a result of the occurrences and the nature and extent of the properties discovered.

B. Discoveries without Prior Planning

1. If a plan for subsequent discoveries is not in place and a project or activity affects a previously unidentified state-owned cultural resource or affects a known state-owned historical resource in an unanticipated manner, the Caltrans District shall promptly stop construction activity in the vicinity of the property and implement all reasonable measures needed to avoid, minimize, or mitigate further harm to the resource.
2. Within 48 hours of the discovery, the Caltrans District shall assess the discovery and, if determined to be potentially eligible, provide initial notification to CSO and the SHPO, and may, as appropriate, notify any Indian tribe that might attach religious or cultural significance to the affected property, or any other interested party that may have a demonstrated interest in potentially affected properties. Notification shall include, to the extent such information is available: description of the nature and extent of the cultural resource(s), assessment of NRHP and CHL eligibility of any properties, the type and extent of any damage to the resource(s), the proposed action, any prudent and feasible treatment measures that would take any effects into account, and a request for comments. Caltrans, at its discretion, may furnish this information through correspondence, hard copy, electronic media, telephone, or meetings, taking into account the capabilities of the interested parties and must document this process for the administrative record. Caltrans may assume eligibility, for purposes of the project or activity, of any potentially affected cultural resource(s) and proceed with the provisions of this sub-part.
3. Should any of the notified parties respond with comments within 72 hours of the initial notification of the discovery or indicate that they wish to be involved in resolving the situation; the Caltrans District shall take into account their

comments or continue consultation with any commenting parties. Caltrans shall provide any remaining information specified in subpart 2, above, as it becomes available. The Caltrans District shall determine the time frame for any further consultation, taking into account the qualities of the property, consequences of construction delays, and comments by interested parties. Following the conclusion of any further consultation, Caltrans shall take all comments received into account and may carry out actions to resolve any effects. Failure of any notified party to respond within 72 hours of the notification shall not preclude Caltrans from proceeding with their proposed actions.

XV. EMERGENCY SITUATIONS

An emergency is a situation of clear and imminent danger that threatens the loss of or damage to life, health, property, or essential public services. This stipulation applies only to projects and activities that will be implemented within 30-calendar days after the disaster or emergency has been formally declared. The President, California Governor, Caltrans Director or District Director may declare an emergency situation exists. Caltrans may request an extension of the period of applicability from the SHPO prior to the 30 calendar days. Caltrans shall follow Stipulations VII through X for all projects and activities to be initiated more than 30 calendar days following declaration of an emergency unless SHPO approves an extension.

A. The Caltrans District PQS shall determine whether the emergency project or activity has the potential to affect state-owned historical resources. If state-owned historical resources are likely to be affected by the emergency project or activity, the Caltrans District shall notify CSO, the SHPO, and may, as appropriate, notify any Indian tribes that might attach religious or cultural significance to the affected resources, or any other interested party that may have a demonstrated interest in potentially affected resources, and afford them an opportunity to comment within seven calendar days of the notification. Notification shall include, to the extent such information is available: description of the nature and extent of the property or properties, assessment of NRHP and CHL eligibility of any cultural resource(s), the type and extent of any damage to the resource(s), what emergency actions were taken, the proposed action, any prudent and feasible treatment measures that would take any effects into account, and a request for comments. If the Caltrans District determines that circumstances do not permit seven days for comment, the Caltrans District shall notify the parties and invite any comments within the time available.

B. Within six months following the initiation of expedited consultation, the Caltrans District shall provide the SHPO, CSO, and any additional interested parties, a narrative report documenting the actions taken in accordance with this expedited consultation process.

XVI. TRANSFERS AND RELINQUISHMENTS OF STATE-OWNED RESOURCES

A. No State-owned Historical Resources Affected

1. The Caltrans District, or CSO as appropriate, shall complete an HRCR with a finding of No State-owned Historical Resources Affected and implement the procedures set forth in Stipulation IX.A when excess parcel(s) to be transferred or routes to be relinquished contain the following within the parcel boundaries or right of way limits (ROW):

    a. Absence of any cultural resources

    b. State-owned cultural resources that are exempt from evaluation pursuant to Stipulation VIII.B.1 and Attachment 4 of this MOU

    c. State-owned cultural resources that were previously determined not eligible for listing in the NRHP or for registration as a CHL

    2. The HRCR shall note the absence of cultural resources, the property type(s) that are exempt from evaluation, and a list of the ineligible resources, if any are present, retain the HRCR in its file, and provide a copy to CSO. However, for state-owned cultural resources evaluated as ineligible as part of the cultural resources study for transfer or relinquishment, if SHPO objects to the eligibility determination within 30 days of receipt of the Caltrans District's request for concurrence, the HRCR to file cannot be used.

B. State-owned Historical Resources Transferred to Federal Agencies or Other State Agencies

For transfers and relinquishments of state-owned historical resources to federal agencies or to other state agencies, the Caltrans District or CSO as appropriate, shall complete an HRCR with a finding of No State-owned Historical Resources Affected and implement the procedures set forth in Stipulation IX.A. The HRCR shall note the location and/or name of the historical resource(s) in the State-Owned Historical Resources Findings section of the HRCR, and provide the name of the federal or state agency to which the historical resource(s) will be transferred; the District shall retain the HRCR in its file and provide a copy to CSO.

C. State-owned Locally Designated Historical Resources Transferred to Local Agencies or Private Owners

1. When a state-owned historical resource to be transferred or relinquished has been designated by a CLG under its historic preservation ordinance or is a contributing element of a district designated under a CLG ordinance, the District shall complete an HRCR with a finding of "No Adverse Effect with Standard Conditions-CLG designation" and implement the procedures set forth in Stipulation X.B.1.c, and the guidance set forth in the SER Volume 2.

2. When a state-owned historical resource to be transferred or relinquished has been designated by a local agency other than a CLG under its preservation ordinance or

is a contributing element of a locally-designated historic district, the District may complete an HRCR with a finding of "No Adverse Effect" and implement the procedures set forth in Stipulation X.B.2, and the guidance set forth in the SER Volume 2.

D. Other State-owned Historical Resources Transferred to Local Agencies, Private Owners, or Not Identified Owners

When state-owned historical resources that are not locally designated as described in Stipulation XVI.C are transferred or relinquished to local agencies, private owners, or the future owners are not yet identified, the Caltrans District shall follow the procedure set forth in Stipulation X.

E. Upon completion of transfer or relinquishment of a state-owned historical resource, the Caltrans District or CSO as appropriate shall send SHPO a notification letter with an updated DPR 523A Primary Record, or its successor form, reflecting the new ownership status.

F. If the transfer or relinquishment of any state-owned historical resource is not implemented as proposed, Caltrans will re-open consultation under Stipulation X of this MOU.

G. State-owned Historical Resources Listed in the NRHP Transferred with Intent to Demolish, Destroy or Significantly Alter the Resource

In order to comply with PRC 5027, which requires State Legislature approval prior to transferring a state-owned NRHP-listed building or structure to any public agency when demolition, destruction or significant alteration is planned, except as specified in the statute, CSO shall notify the SHPO of this requirement when seeking comments on the potential effects of the transfer.

XVII. DOCUMENTATION

A. All documentation that supports findings and determinations made under this MOU shall be consistent with the SER Volume 2 and its subsequent revisions or edits, consistent with the attachments to this MOU, and shall be peer-reviewed by Caltrans PQS in the appropriate discipline.

B. Documentation prepared by local agencies or their consultants in support of such findings shall be submitted to the Caltrans District for review and approval by Caltrans PQS in the appropriate discipline. The Caltrans District shall transmit all documentation cited herein to CSO, and/or the SHPO as stipulated by this MOU. The Caltrans District shall not transmit to CSO, the SHPO, and/or any interested party any documentation that has not been reviewed and approved by Caltrans PQS in the appropriate discipline.

C. All documentation prepared under this MOU shall be kept on file at Caltrans District offices and made available to interested parties and the public as stipulated by this MOU, consistent with applicable confidentiality requirements.

D. Findings of eligibility, assessing effects and mitigating adverse effects and relevant supporting documentation may be combined into one HRCR, as appropriate, or may be documented in separate HRCRs as project information and timing allows.

XVIII. TRAINING REQUIREMENTS

Prior to implementing activities under this MOU, Caltrans personnel responsible for making, reviewing, or approving findings and determinations made under this MOU shall be certified as Professionally Qualified Staff (PQS) in the appropriate discipline and shall receive appropriate training as determined by CSO and SHPO.

XIX. ADMINISTRATIVE STIPULATIONS

A. Resolving Objections

Should SHPO object in writing to Caltrans at any time regarding the manner in which the terms of this MOU are carried out, to any action carried out or proposed with respect to implementation of this MOU, or to any documentation prepared in accordance with and subject to the terms of this MOU, Caltrans and SHPO shall consult to resolve the objection. The consultation period shall be determined by mutual agreement of Caltrans and SHPO. If resolution is reached within this time frame, Caltrans will proceed in accordance with the terms of the resolution. If resolution is not reached within this time frame SHPO may proceed in accordance with Stipulation XIX.D, below, and propose termination of this MOU.

B. Exclusionary Provision

1. Probation

   a. The CPO may place an individual Caltrans District, Division, Office or Branch on probation at the request of the CSO Chief in consultation with the SHPO. Probation means loss of specific authority delegated under the MOU, as determined by the CSO Chief in consultation with the SHPO. Probation may result from a pattern of compliance deficiencies identified during CSO and OHP project review or an MOU review or annual report, or failing to maintain the PQS necessary to implement the provisions of the MOU. Examples of deficient compliance actions that may be cause for probation include, but are not limited to, inappropriate PAL delineation, inappropriate application of the screening process, inappropriate application of the exempt from evaluation process, insufficient identification efforts resulting in post-review discovery, and ESA violations and inadequate consultation efforts.

   b. The CPO shall provide written notice of probationary action to the administrative unit losing authority and the SHPO. The CPO, in consultation with the CSO Chief, the SHPO, and appropriate level Caltrans District representative (Director, Deputy, Office Chief or Branch Chief), will develop and approve a Plan of Corrective Action (POCA) to be implemented by the Caltrans District, Division, Office or Branch. The POCA will describe the deficiencies, provide a corrective plan specific to the identified deficiencies, indicate the duration of probation and provide performance or reporting

criteria to document improvement. Upon expiration of the probation, the CPO, in consultation with the above parties, shall determine whether the POCA has been adequately implemented and the deficiencies corrected. CSO and the SHPO may perform program reviews to ensure compliance with the POCA. Failure to correct the deficiencies or identification of additional deficiencies during the term may result in extension of the POCA with or without additional restrictions, suspension, or removal from the MOU.

2. Suspension

   a. The CPO may suspend an individual Caltrans District, Division, Office or Branch at the request of the CSO Chief in consultation with the SHPO. Suspension may result from failure to successfully correct the deficiencies that resulted in placement on probation or suspension may be immediate if the CPO determines the violations were egregious, such as numerous ESA violations where cultural resources were impacted. Suspension means substantial or total loss of authority delegated under the MOU. CSO review and approval of specified compliance actions under the MOU will be required.

   b. The CPO, in consultation with the CSO Chief, the SHPO, and appropriate level Caltrans District representative (Director, Deputy, Office Chief, Branch Chief), will approve a POCA to be implemented by the Caltrans District, Division, Office or Branch. The POCA will describe the deficiencies, provide a corrective plan specific to the identified deficiencies, indicate the duration of suspension and provide performance or reporting criteria to document improvement. Upon expiration of the suspension, the CPO, in consultation with the above parties, shall determine whether the POCA has been adequately implemented and the deficiencies corrected. Failure to correct the deficiencies or identification of additional deficiencies during the term may result in extension of the POCA with or without additional restrictions, or removal from the MOU.

3. Removed Status

   a. At the request of the CPO, in consultation with the SHPO and the Caltrans District Director, the Caltrans Director may remove an individual Caltrans District, Division, Office or Branch from the MOU based on failure to successfully comply with a POCA or for additional egregious non-compliance actions beyond the scope, but within the term of an existing POCA. Removal from the MOU will require all PRC 5024 of the CEQA compliance documents to route through CSO who will consult with the SHPO, as appropriate, under PRC 5024.

   b. A POCA, to be developed in conjunction with but not necessarily prior to the removal, will specify the term of removal and a pathway to restoration. The pathway to restoration will likely proceed back through suspension and probation prior to regaining full status.

C. Amendment

1. Any signatory to this MOU may at any time propose amendments, whereupon all signatories shall consult to consider such amendment. This MOU may be amended only upon written concurrence of all signatories.
2. Each attachment to this MOU may be individually revised or updated through consultation and agreement in writing of the signatories without requiring amendment of the MOU, unless the signatories through such consultation decide otherwise. Upon revising any attachment or appendix, Caltrans shall append any revised document to this MOU and share the final revised document to the other parties to this MOU.

D. Termination

1. Only the signatories may terminate this MOU. If this MOU is not amended as provided for in Stipulation XIX.C, or if either signatory proposes termination of this MOU for other reasons, the signatory proposing termination shall notify the other signatory in writing, explain the reasons for proposing termination, and consult to seek alternatives to termination.
2. Should such consultation result in an agreement on an alternative to termination, the signatories shall proceed in accordance with that agreement.
3. Should such consultation fail, the signatory proposing termination may terminate this MOU by promptly notifying the other signatory, and concurring parties in writing.
4. Beginning with the date of termination, Caltrans shall ensure that until and unless a new agreement is executed for the actions covered by this MOU, such projects and activities shall be reviewed individually in accordance with PRC 5024(a) through (h) and W-26-92.

E. Review and Reporting

1. CSO shall prepare an annual written report of activities performed under this MOU for its duration, unless the signatories agree to amend the reporting schedule. The initial report shall be prepared following completion of the last six months of the first State fiscal year under this MOU and thereafter, annual reports shall be submitted after the completion of each full State fiscal year. CSO shall submit the annual reports to the SHPO no later than three (3) months following the end of the State fiscal year. At a minimum, this annual report shall include:
    a. Results of all inventory activity undertaken pursuant to Stipulation VIII of this MOU.
    b. A narrative that lists the actions or projects carried out on historical resources and that describes the effects of such actions or projects on historical resources.
    c. An assessment indicating how well Caltrans has been able to comply with the terms of this MOU.

d. An assessment indicating how effective and useful this MOU has been in assisting Caltrans to administer its historical resource stewardship responsibilities.

e. An assessment indicating how effective and useful this MOU has been in facilitating and expediting Caltrans' project planning and implementation schedules.

f. A discussion of any problems or unexpected issues encountered during the fiscal year. This may include a recommendation that participation in this MOU by a District or Headquarters-unit of Caltrans is continued with provisions or that such participation is suspended for a specified time period. The recommendation shall indicate the duration of provisional or suspended status. The CSO may recommend to the Caltrans Director that a District or Headquarters-unit be suspended from participation in this MOU based on review of the annual report. The CSO and/or the Caltrans Director may consult the SHPO before taking any such action.

g. Recommendations, with justification, that a Caltrans District or Headquarters-unit with provisional status be restored to full participation or that a suspended Caltrans District or Headquarters-unit be restored to provisional or full participating status.

h. Recommendations for improving the effectiveness of this MOU.

2. In accordance with Stipulation X.B.1, CSO shall provide a quarterly report to the SHPO summarizing findings of No Adverse Effect with Standard Conditions. After the first year of this MOU, the SHPO and CSO shall consult to determine if the reporting period should be modified and determine a new schedule. The reporting period may be modified without requiring amendment of the MOU.

3. CSO shall provide notice to the public that the annual report is available for public inspection and ensure that potentially interested members of the public are made aware of its availability and that the public may comment to the signatories on the report.

4. SHPO shall have 45 days following receipt to review and comment on the annual report. To facilitate SHPO's review, the CSO, other Caltrans representatives and SHPO may meet within the 45-day review time frame to discuss the annual report and to address issues, questions or other matters pertinent to the implementation of this MOU. Based upon such consultation, Caltrans and SHPO will determine whether this MOU should be continued, amended or terminated or whether the participation in this MOU by a District or Headquarters-unit of Caltrans should be continued with provisions, suspended or terminated.

F. Confidentiality

All parties to this MOU acknowledge that information about state-owned historical resources, prospective state-owned historical resources, or cultural resources considered historic for purposes of this MOU are or may be protected under PRC sections 5097.9 and 5097.993, that necessary confidentiality is afforded to those specific locations, and

that information pertaining to those resources may be subject to the exemptions from the California Public Records Act pursuant to California Government Code sections 6254.10 and 6254(r), relating to the disclosure of sensitive information, and having so acknowledged, will ensure that all actions and documentation prescribed by this MOU are, where necessary, consistent with the protections under PRC sections 5097.9 and 5097.993 and California Government Code section 6254.10 and 6254(r).

G. Duration of this MOU

This MOU shall remain in effect for a period of five (5) years after the date it takes effect and shall automatically expire and have no further force or effect at the end of this ten-year period unless it is terminated prior to that time. No later than nine (9) months prior to the expiration date of the MOU, Caltrans shall initiate consultation to determine if the MOU should be allowed to expire automatically or whether it should be extended for an additional term, with or without amendments, as the signatories may determine. Unless the signatories unanimously agree through such consultation on an alternative to automatic expiration of this MOU, this MOU shall automatically expire and have no further force or effect in accordance with the timetable stipulated herein.

H. Effective Date of this MOU and of Additional Attachments and Amendments

This MOU shall take effect January 1, 2015, following execution by the SHPO and Caltrans. Additional attachments or amendments to this MOU shall take effect on the dates they are fully executed by the SHPO and Caltrans.

Execution and implementation of this MOU evidence that Caltrans has taken into account the effects of its projects and activities on state-owned historical resources, and that Caltrans has complied with PRC 5024 and W-26-92 for its program and its individual projects and activities.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 5024
AND GOVERNOR'S EXECUTIVE ORDER W-26-92

SIGNATORY PARTIES:

DEPARTMENT OF TRANSPORTATION

By: _____ Date: 12/22/14

For MALCOM DOUGHERTY, Director

CALIFORNIA OFFICE OF HISTORIC PRESERVATION

By: _____ Date: 12-17-14

CAROL ROLAND-NAWI,
State Historic Preservation Officer

CONCURRING PARTIES:

By: _____ Date: 12-12-14

KATRINA C. PIERCE, Chief
Division of Environmental Analysis
Caltrans Preservation Officer

By: _____ Date: 12-12-14

ANMARE MEDIN, Chief
Cultural Studies Office
Division of Environmental Analysis

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 5024
AND GOVERNOR'S EXECUTIVE ORDER W-26-92

CONCURRING PARTIES:

By: _____ Date: 12/12/2014
District 1 District Director

By: _____ Date: 12/12/14
District 2 District Director

By: _____ Date: 12-12-2014
District 3 District Director

By: _____ Date: 12-12-14
District 4 District Director

By: _____ Date: 12/12/14
District 5 District Director

By: _____ Date: 12/12/2014
District 6 District Director

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION
AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING
COMPLIANCE WITH PUBLIC RESOURCES CODE SECTION 5024
AND GOVERNOR'S EXECUTIVE ORDER W-26-92

CONCURRING PARTIES:

By: Carrie L. Bowen Date: 12-15-14
District 7 District Director

By: Date: 12/12/14
District 8 District Director

By: Date: 12/12/2014
District 9 District Director

By: Date: 12/12/14
District 10 District Director

By: Date: 12-12-14
District 11 District Director

By: Date: 12/12/14
District 12 District Director

ATTACHMENT 1
CALTRANS PROFESSIONALLY QUALIFIED STAFF STANDARDS

As outlined in Stipulation V of this Memorandum of Understanding (MOU), all cultural resources studies carried out by Caltrans or its consultants must be conducted by or under the direct supervision of individuals who meet the Secretary of the Interior's Professional Qualifications Standards for the relevant field of study. The standards are designed to ensure program quality and satisfy state mandates associated with compliance with California Public Resources Code (PRC) 5024 and Executive Order W-26-92.

Caltrans meets these standards by certifying its cultural resources staff as Professionally Qualified Staff (PQS). In order to take full advantage of the provisions of this MOU, Caltrans PQS must meet the standards in the appropriate field. Those not fully qualified as archaeological Principal Investigators (PI) or Principal Architectural Historians (PAH) may accomplish many important tasks with oversight, generally in the form of peer review or under direct supervision by qualified staff. The Chief of the Cultural Studies Office in the Headquarters Division of Environmental Analysis is responsible for certifying the qualifications of all Caltrans PQS. Minimum qualifications are listed below for cultural resources staff conducting various tasks.

ARCHAEOLOGICAL QUALIFICATIONS STANDARDS

Archaeological Crew Member

Qualified to participate in archaeological surveys and excavations under the direction of a qualified Lead Archaeological Surveyor or higher. Minimum qualifications:

- A minimum of six weeks of supervised field training (including at least three weeks each of excavation and field survey) in time blocks of at least one week duration (field school or equivalent)

and

- A minimum of two upper division college courses in archaeology.

Lead Archaeological Surveyor

Qualified to conduct and report archaeological surveys, and to prepare other compliance documents, with peer review provided by a qualified Prehistoric or Historical Archaeology PI to ensure document quality. Minimum qualifications:

- A bachelor's degree in anthropology with emphasis in archaeology or closely related discipline (such as history or earth sciences) and subsequent coursework in archaeology (a minimum of four upper division or graduate courses in archaeology required)

and

- At least six months of professional archaeological experience in California or Great Basin, including at least 12 weeks of California field survey experience

and

- Demonstrated ability to organize and conduct archaeological surveys, complete site record forms, and report on survey findings dealing with both prehistoric and historical archaeological resources.

Co-Principal Investigator—Prehistoric Archaeology

Qualified as a Construction Monitor, PI for Extended Phase I studies, Co-PI for Phase II and III excavations for work involving prehistoric archaeological resources, and to conduct consultant oversight and contract management, under the direction of a Prehistoric Archaeology PI. May author proposals, reports for Extended Phase I studies, and other compliance documents, with peer review from a Prehistoric Archaeology PI to ensure document quality. Minimum qualifications:

- Qualification as a Lead Archaeological Surveyor for Caltrans

and

- At least 12 months of professional experience or specialized training in prehistoric archaeology, including: 1) at least 10 weeks of California or Great Basin excavation experience under the supervision of a Prehistoric Archaeology PI; 2) at least four weeks of supervised laboratory experience on collections from prehistoric California or Great Basin sites; and 3) at least four weeks of excavation experience in a supervisory capacity on prehistoric California or Great Basin sites

and

- Demonstrated ability to carry archaeological research to completion, as evidenced by the timely completion of an excavation report or comparable study involving a prehistoric site or sites

and

- Understanding of the PRC 5024 process and familiarity with cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance.

Co-Principal Investigator—Historical Archaeology

Qualified as a Construction Monitor and as Co-PI for Extended Phase I, Phase II, and Phase III excavations involving historical archaeological resources, and to conduct consultant oversight and contract management, under the direction of a Historical Archaeology PI. May author reports that evaluate historical archaeological resources where no excavation is required to reach a conclusion about their eligibility and other compliance documents. That work must be peer reviewed by a Historical Archaeology PI to ensure document quality. Minimum qualifications:

- Qualification as a Lead Archaeological Surveyor for Caltrans

and

- At least 12 months of professional archaeological experience or specialized training dealing with historic-period resources including: 1) at least 10 weeks of excavation experience under the supervision of a Historical Archaeology PI; 2) at least four weeks of

supervised laboratory experience on collections from historic sites; and 3) at least four weeks of excavation experience in a supervisory capacity on historic sites

and

- Demonstrated familiarity with California or Western U.S. history, documentary research, and oral history, as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry archaeological research to completion, as evidenced by the timely completion of an evaluation or excavation report addressing a historic-period site or sites

and

- Understanding of the PRC 5024 process and familiarity with cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance.

Principal Investigator—Prehistoric Archaeology

Fully qualified under the Secretary of the Interior's standard for prehistoric archaeology to conduct all types of studies, including Extended Phase I, Phase II, and Phase III excavations, involving prehistoric archaeological resources and traditional cultural properties or cultural landscapes of a prehistoric or ethnographic nature. May author proposals, reports for Extended Phase I, II, and III studies, and other compliance documents, with peer review to ensure document quality. May conduct consultant oversight and contract management. Minimum qualifications:

- Graduate degree in anthropology, archaeology, or cultural resources management with an emphasis in prehistoric archaeology, as evidenced by appropriate coursework

and

- At least 16 months of professional archaeological experience involving prehistoric sites, including a minimum of one year of field experience, as follows: 1) at least 24 weeks of fieldwork under the supervision of a Prehistoric Archaeology PI, of which at least 12 weeks must be excavation work; 2) at least eight weeks of laboratory experience on collections from California or Great Basin sites supervised by a Prehistoric Archaeology PI; and 3) at least 20 weeks of field work in a supervisory capacity, of which at least eight weeks must be on California or Great Basin sites

and

- Demonstrated ability to carry out archaeological research to completion, as evidenced by the completion of a thesis, dissertation, or other comparable major study focusing on a prehistoric site or sites

and

- Ability to carry out the more complex and difficult aspects of the PRC 5024 process

and

- Understanding of Caltrans cultural resources policies, procedures and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

Principal Investigator—Historical Archaeology

Fully qualified under the Secretary of the Interior's standard for historical archaeology to conduct all types of studies, including Extended Phase I, Phase II, and Phase III excavations, involving historical archaeological resources and historic-period traditional cultural properties or cultural landscapes. May author proposals, reports for Extended Phase I, II, and III studies, and other compliance documents, with peer review to ensure document quality. May conduct consultant oversight and contract management. Minimum qualifications:

- Graduate degree in anthropology, archaeology, cultural resources management, or a closely related field with an emphasis in historical archaeology, as evidenced by a minimum of 12 upper division semester units (or equivalent) in history and the theory and methods of historical archaeology, or equivalent knowledge as shown in a thesis or dissertation or major report evaluating historical archaeological properties

and

- At least 16 months of professional archaeological experience involving historical sites, including a minimum of one year of field experience, as follows: 1) at least 12 weeks of fieldwork under the supervision of a Historical Archaeology PI, of which at least 6 weeks must be excavation work; 2) at least 4 weeks of laboratory experience on collections from California sites, supervised by a Historical Archaeology PI; and 3) at least 20 weeks of field work in a supervisory capacity, of which at least eight weeks must be on California sites

and

- Demonstrated familiarity with California or Western U.S. history, documentary research, and oral history techniques, as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry out archaeological research to completion, as evidenced by the completion of a thesis, dissertation, or other comparable major study focusing on a historic-period site or sites

and

- Ability to carry out the more complex and difficult aspects of the PRC 5024 process

and

- Understanding of Caltrans cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

ARCHITECTURAL HISTORIAN QUALIFICATIONS STANDARDS

Architectural Historian

Qualified to evaluate historic properties, other than archaeological resources. May prepare evaluation reports for all types of non-archaeological resources and other compliance documents, and conduct consultant oversight and contract management, with peer review by a Principal Architectural Historian to ensure document quality. Minimum qualifications:

- A graduate degree in architectural history, art history, architecture, or a closely related field, with a concentration in American architecture; or a graduate degree in American history, public history, historic preservation, American studies, or a closely related field; or a bachelor's degree in one of the above disciplines, plus 12 months of full-time related professional experience in research, writing, teaching, interpretation, or other related professional activity

and

- Demonstrated ability to apply the practices of architectural history in the identification, evaluation, and documentation of historic properties in California or the United States; or demonstrated familiarity with U.S. history, documentary research, and oral history techniques, as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry historical research to completion, as evidenced by the timely completion of a major research report or publication based on original research

and

- Understanding of the PRC 5024 process and familiarity with cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance.

Principal Architectural Historian

Fully qualified under the Secretary of the Interior's standard for architectural historians. Able to conduct all types of studies involving historic-period resources, including traditional cultural properties and cultural landscapes, other than archaeological properties. May author evaluation reports and other compliance documents, with peer review to ensure document quality. May conduct consultant oversight and contract management. May determine applicability of Environmentally Sensitive Areas as described in Attachment 5. Minimum qualifications:

- A graduate degree in architectural history, art history, architecture, or a closely related field, with a concentration in American architecture; or a graduate degree in American history, public history, historic preservation, American studies, or a closely related field, and at least 24 months of full-time related professional experience in research, writing, teaching, interpretation, or other related professional activity; or a bachelor's degree in one of the above disciplines, plus 24 months of full-time related professional experience in research, writing, teaching, interpretation, or other related professional activity

and

- Demonstrated ability to apply the practices of history or architectural history in the identification, evaluation, and documentation of historic properties in California or the United States; or demonstrated familiarity with U.S. history, documentary research, and oral history techniques, as evidenced by upper division course work or a major research report or publication based on original research

and

- Demonstrated ability to carry historical research to completion, as evidenced by the timely completion of a thesis, dissertation, or other comparable major study consisting of the design and execution of a historical study concerning a historic-period property or properties

and

- Ability to carry out the more complex and difficult aspects of the PRC 5024 process

and

- Understanding of Caltrans cultural resources policies, procedures, and goals, as demonstrated in reports and/or past performance

and

- Familiarity with Caltrans cultural resources contracting policies and procedures.

ATTACHMENT 2
SCREENED PROJECTS AND ACTIVITIES

Screened projects and activities are those that have the potential to affect state-owned historical resources, but following appropriate screening, may be determined exempt from further PRC 5024 review under this Memorandum of Understanding (MOU).

This Attachment applies only when the project or activity is limited exclusively to one or more of the activities listed below. If the Caltrans PQS determines that the project or activity has potential to affect state-owned historical resources, additional PRC 5024 review will be required following the steps outlined in Stipulation VII of this MOU.

The Caltrans PQS is responsible for screening individual projects or activities that fall into one or more of the types of screened projects or activities listed below to determine whether the individual project or activity requires further consideration, or if whether may be determined exempt from further review under the terms of this MOU, as prescribed by Stipulation VII. Only Caltrans PQS may determine that a project or activity is exempt from further review as a result of screening.

Except for minor maintenance on historic bridges and tunnels, as outlined in the *Caltrans Standard Environmental Reference Volume 2-Cultural Resources* (SER Volume 2) Exhibit 7.3—Historic Bridges and Tunnels: Screened Undertakings and Activities, the project or activity will not qualify as exempt from further review if there may be state-owned historical resources present that could be affected.

A project or activity will not qualify as exempt from review when conditions must be imposed to ensure that potential state-owned historical resources would not be affected.

All features of the project or activity, including the identification of mandatory and/or designated storage, disposal, or borrow areas, depth of disturbance, and construction easements, must be identified prior to the screening process. If additional features are added to a screened project or activity, the project or activity must be rescreened.

THE SCREENING PROCESS

The screening process may include one or more of the following procedures. The process is neither limited to the steps below, nor are all these steps required for all projects and activities. Screening should be appropriate to the specific complexity, scale, scope, and location of the project or activity. Screening may include:

- Literature/records review to determine potential for involvement of historical resources.
- Contacting Indian tribes who may have concerns within the project area.
- Field review of project area.
- Reviewing detailed project plans.
- Contacting non-federally recognized Native American organizations and individuals, local historical societies, or other potential consulting parties who may have concerns.
- Reviewing aerial photographs, Caltrans photologs, historic maps, or as-built records.

- Reviewing right-of-way, assessment parcel, or ownership data.
- Reviewing character-defining features of historic bridges and tunnels.

Based on the outcome of the screening process, the Caltrans PQS may determine that individual projects or activities are exempt from further review as there is no potential to affect state-owned historical resources.

The Caltrans PQS prepares a Screening Memo to the project planner for inclusion in the Caltrans District project file to document completion of the PRC 5024 process for applicable types of screened projects or activities and no further review will be necessary.

TYPES OF SCREENED PROJECTS AND ACTIVITIES

1. Pavement reconstruction, resurfacing, shoulder backing, or placement of seal coats.
2. Minor widening of less than one-half-lane width, adding lanes in the median, or adding paved shoulders.
3. Channelization of intersections or addition of auxiliary lanes.
4. Establishment of chain control areas, park-and-ride lots, or maintenance pullouts.
5. Minor modification of interchanges and realignments of on/off ramps.
6. Minor utility installation or relocation.
7. Installation of noise barriers or retaining walls.
8. Addition of bicycle lanes or pedestrian walkways.
9. Storm damage repairs, such as culvert clearing or repair, disposal or stockpile locations, shoulder reconstruction, or slide or debris removal.
10. Repair of the highway and its facilities.
11. Modification of existing features, such as slopes, ditches, curbs, sidewalks, driveways, dikes, or headwalls, within or adjacent to the right of way.
12. Minor operational improvements, such as culvert replacements and median or side-ditch paving.
13. Addition or replacement of devices, such as glare screens, median barriers, fencing, guardrails, safety barriers, energy attenuators, guide posts, markers, safety cables, ladders, lighting, hoists, or signs.
14. Installation, removal or replacement of roadway markings, such as painted stripes, raised pavement markers, thermoplastic tape, or raised bars, or installation of sensors in existing pavements.
15. Abandonment, removal, reconstruction, or alteration of railroad grade crossings or separations or grade crossing protection.
16. Minor alteration or widening of existing grade separations where the primary function and utility remain unaltered.

17. Additions or alterations to existing buildings, such as work on or in office or equipment buildings, maintenance stations, warehouses, roadside rests, vista points, minor transit facilities, weigh and inspection stations, toll facilities, or state-owned rentals.
18. Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety.
19. Any work on Category 5 bridges, including rehabilitation or reconstruction.
20. Modification of traffic control systems or devices utilizing existing infrastructure, including installation, removal, or modification of regulatory, warning, or informational signs or signals.
21. Installation of freeway surveillance or ramp metering equipment.
22. Replacement of existing highway signs.
23. Removal or control of outdoor advertising.
24. Projects that eliminate non-fixed hazards, such as removal of objects on roadway, traffic accident cleanup, hazardous waste removal, or fire control.
25. Establishment, replacement, or removal of landscaping, vegetation, or irrigation systems on state or local public property, including highway and local roads rights of way and building sites.
26. Construction or repair of fish screens or ladders, springs, waterholes, or stream channels (e.g., clearing of debris from streams, ditches, or culverts).
27. Right-of-way activities such as hardship acquisition or acquisition of scenic or conservation easements.
28. Joint or multiple use permits with other agencies or encroachment permits.
29. Preliminary engineering tests, such as seismic, geologic, or hazardous materials testing that involve buildings or structures or require trenching or ground boring.
30. Minor maintenance on historic bridges and tunnels.

ATTACHMENT 3
PROJECT AREA LIMITS DELINEATION

In accordance with the Stipulations VI.C.3 and VIII.A of this Memorandum of Understanding (MOU), Caltrans will establish the Project Area Limits (PAL) for projects and activities covered by this MOU. The Caltrans PQS and project manager are jointly responsible for describing and establishing a PAL and will sign any maps or plans that define or redefine a PAL.

When the guidelines below are followed, specific consultation with the SHPO regarding PALs and level of effort typically will not be necessary. Consultation with the SHPO may be needed for large and complex projects or activities when there are issues of access for inventory and evaluation, when there is potential for visual or indirect effects, when there are concerns over delineating whole state-owned cultural resources, or when there is public controversy such as potential for litigation, concerns expressed by outside parties, or issues related to Native American consultation. Caltrans shall consider the results of consultation with Indian tribes regarding identification of state-owned cultural resources when delineating the PAL.

PAL DEFINITION

A PAL is the geographic area or areas within which a project or activity may directly or indirectly cause alterations in the character or use of state-owned historical resources, if any such resources exist. The PAL is influenced by the scale and nature of a project or activity and may be different for different kinds of effects caused by the project or activity.[1] A PAL therefore depends on a project or activity's potential for effects. Effects to be considered may include, but are not limited to, physical damage or destruction of all or part of a resource; physical alterations; moving or realigning a state-owned historical resource; isolating a state-owned cultural resource from its setting; visual, audible, or atmospheric intrusions; shadow effects; vibrations; and change in access or use.

PAL BOUNDARIES

A PAL delineates the boundaries within which it can be reasonably expected that a proposed project or activity has the potential to affect state-owned historical resources, should any be present. It may be the right of way itself or an area either more or less than the right of way, depending on the scope and design of the project or activity.

A PAL may extend well beyond the right of way. It must include all construction easements, such as slope and drainage easements, stormwater detention basins, off-site biological mitigation sites requiring ground disturbance, and mandatory or designated borrow and disposal sites. It may include project-related activity areas such as utility relocations, access roads, equipment storage or staging areas, or conservation or scenic easements. Consideration should be given for other jurisdictional areas, such as the U.S. Army Corps of Engineers (Corps) permit area. The Corps permit area consists of those areas comprising the waters of the United States that will be affected by the proposed work and structures and uplands directly affected as a result of authorizing the work or structure.

[1] Based on the definition found in 36 Code of Federal Regulations 800.16(d)

INDIRECT EFFECTS AND BOUNDARIES

A PAL addresses indirect effects when warranted. Indirect effects may extend beyond the right of way to encompass visual, audible, or atmospheric intrusions; shadow effects; vibrations from construction activities; or change in access or use. Delineation of an indirect PAL must be considered carefully, particularly for potential audible and visual effects, taking into account proximity and use of adjoining properties, the surrounding topography, and other aspects of a state-owned cultural resource's setting.

1. Noise: When considering potential noise effects, there must be a reasonable basis for predicting an effect based on an increase over existing noise level. Noise effects should be considered when a project would result in a new through lane or a substantial change in vertical or horizontal alignment.
2. Visual: Highways on new alignments, multi-level structures, or elevated roadways are considered to have potential for visual effects if they could be out of character with or intrude upon a state-owned historical resource or isolate it from its setting. Projects for improvement or expansion of existing transportation facilities that will not substantially deviate from existing alignment or profile are not expected to involve visual impacts.

PALS AND PROPERTY TYPES

Different PALs may be established for state-owned archaeological, cultural and built-environment resources:

1. For archaeological resources, a PAL is typically established based on a project or activity's potential for direct effects from ground-disturbing activities. On occasion, archaeological sites may also have qualities that could be affected indirectly.
2. Buildings, structures, objects, districts, cultural sites as well as sites of religious or cultural significance are more likely to be subject to indirect, as well as direct effects, thus a PAL for the built and cultural environment is usually broader than an archaeological PAL in order to include the potential for such effects.

In delineating the PAL, consideration must always be given to the project or activity's potential effects on a state-owned historical resource as a whole. If any part of a resource may be affected, the PAL generally will encompass the entire resource, including the reasonably anticipated or known boundaries of archaeological sites. However, it is rarely necessary to extend a PAL to include entire large districts or landscapes, large rural parcels, extensive functional systems, or long linear features if potential effects on the whole would clearly be negligible.

The guiding principle on delineating a PAL is that it should be commensurate with, and provide for, an appropriate level of effort to take into account a project or activity's potential for effects on state-owned historical resources.

While a PAL generally will encompass an entire resource, physical intrusion such as testing of archaeological sites should be focused on areas subject to reasonably foreseeable effects of the project or activity and must be guided by a project- or site-specific research design. Areas of an archaeological site that are unlikely to be affected by a project or activity should not be tested unless compelling reasons to conduct such testing are provided in the research design.

STUDY AREAS

In order to encourage consideration of state-owned historical resources early in the planning and design of a project or activity, Caltrans PQS may designate a study area for use in conducting historical studies until a PAL can be delineated. A study area should encompass all land that potentially could be included in the final PAL. Establishing a study area is especially pertinent to those projects or activities subject to a phased identification and evaluation process.

PROJECT CHANGES AND PAL REVISIONS

Whenever a project or activity is revised (e.g., design changes, utility relocation, or additional off-site mitigation areas), including revisions during construction, Caltrans PQS will determine whether the changes require modifying the PAL. If a PAL needs to be modified, either increased or decreased in scope, Caltrans is responsible for informing any consulting parties consistent with the Stipulations of this MOU. The PAL shall be revised commensurate with the nature and scope of the changed potential effects.

ATTACHMENT 4
STATE-OWNED CULTURAL RESOURCES EXEMPT FROM EVALUATION

Under PRC 5024(b), Caltrans is required to "inventory all state-owned structures over 50 years of age under its jurisdiction listed in or which may be eligible for inclusion in the National Register of Historic Places or registered or which may be eligible for registration as a state historical landmark. State-owned structures in freeway rights-of-way shall be inventoried before approval of any undertaking which would alter their original or significant features or fabric, or transfer, relocate or demolish those structures." In addition, under PRC 5024(e), Caltrans is required to submit annual inventory updates to the State Historic Preservation Officer (SHPO).

The procedures in this attachment enable Caltrans PQS to concentrate their efforts on state-owned cultural resources that have the potential to be state-owned historical resources by identifying categories of cultural resources that have no potential to be a state-owned historical resource. Thus, all state-owned cultural resources, with few exceptions noted below, at a minimum must be recorded.

State-owned cultural resources should be evaluated only if Caltrans PQS or appropriately-qualified consultants reasonably determine that the resource has potential for historic significance under the National Register of Historic Places (National Register) eligibility criteria or under the California Historical Landmark (CHL) registration criteria. Evidence of such potential consists of associations with significant historic events or individuals (Criterion A or B and CHL Criteria 1 or 2); engineering, artistic, design, or aesthetic values (Criterion C and CHL Criterion 3); information value (Criterion D; there is no counterpart for the CHL); the presence of tribal or community concerns; or inclusion as a potential contributing element within a larger state-owned cultural resource requiring evaluation, such as a historic district.

This attachment defines categories of cultural resources that do not warrant evaluation pursuant to Stipulation VIII. C.1 of this Memorandum of Understanding (MOU). If documentation is warranted, exempted state-owned cultural resources may be recorded at a level commensurate with the nature of the resource, for example, recordation in the Historical Resources Compliance Report (HRCR) or Historic Property Survey Report (HPSR), and/or on a DPR 523 Primary Record form included in or created by the Caltrans Cultural Resources Database (CCRD).

ARCHAEOLOGICAL RESOURCES (PREHISTORIC AND HISTORICAL)

Only Caltrans PQS or consultants who meet the Caltrans Archaeological Qualification Standards (Attachment 1) for Co-Principal Investigator and above are authorized to determine whether the archaeological resource types or features listed below may be exempted from evaluation. Professional judgment should be used as to the level of identification and recordation. This exemption process does not include archaeological sites or other cultural remains or features that may qualify as contributing elements of districts.

Exempted state-owned archaeological resources are documented at a level commensurate with the nature of the property [e.g., on a DPR 523 Primary Record form included in or created by the CCRD].

Archaeological Resource Types and Features Exempt from Recordation and Evaluation:

- Isolated prehistoric finds consisting of fewer than three items per 100 square meters
- Isolated historic finds consisting of fewer than three artifacts per 100 square meters (e.g., several fragments from a single glass bottle are one artifact)
- Refuse scatters less than 50 years old (scatters containing no material that can be dated with certainty as older than 50 years old)
- Features less than 50 years old (those known to be less than 50 years old through map research, inscribed dates, etc.)
- Isolated refuse dumps and scatters over 50 years old that lack specific associations
- Isolated mining prospect pits
- Placer mining features with no associated structural remains or archaeological deposits
- Foundations and mapped locations of buildings or structures more than 50 years old with few or no associated artifacts or ecofacts, and with no potential for subsurface archaeological deposits

BUILT-ENVIRONMENT RESOURCES

Because the Caltrans Historic Bridge Inventory is regularly updated, Category 5[1] state-owned bridges and culverts with bridge numbers are already included in the CCRD and do not need to be recorded on a DPR 523 Primary Record. However, they need to be listed in "Section 9: Findings for State-owned Properties" of the Historic Property Survey Report (HPSR) or "Section 9: State-owned Historical Resources Findings" of the Historical Resources Compliance Report (HRCR).

Built-Environment Resource Types Exempt from Evaluation:

Built-Environment Resource Types 1 and 2 will not require evaluation or recordation, except as noted below. Only Caltrans PQS or consultants who meet the Caltrans Professional Qualifications Standards (Attachment 1) for Architectural Historian and above or Lead Archaeological Surveyor and above are authorized to determine which state-owned built-environment resources fall under Resource Types 1, 2, or 3 and are therefore exempt from evaluation.

Resource Type 1: State-owned Minor, ubiquitous, or fragmentary infrastructure elements exempt from recordation and evaluation

Resource Type 1 built environment cultural resources are exempted from recordation and evaluation and their addresses or locations do not need to be included in the CCRD and listed in "Section 9: Findings for State-owned Properties" of the Historic Property Survey Report (HPSR) or "Section 9: State-owned Historical Resources Findings" of the Historical Resources

[1] In the California Historic Bridge Inventory, Category 5 means that a bridge, culvert or tunnel has been determined ineligible for inclusion in the National Register of Historic Places.

Compliance Report (HRCR), but the HRER and HRCR should mention that there are Type 1 built environment resources in the Project Area Limits.

The following list does <u>not</u> apply to state-owned cultural resources that are 50 years old or older *and* could be potentially important, nor does it apply to state-owned cultural resources that may contribute to the significance of larger historical resources such as districts or cultural landscapes.

State-Owned Water Conveyance and Control Features:

- natural bodies of water providing a water source, conveyance, or drainage
- modified natural waterways
- concrete-lined canals less than 50 years old and fragments of abandoned canals.
- roadside drainage ditches and secondary agricultural ditches
- small drainage tunnels
- flood storage basins
- reservoirs and artificial ponds
- levees and weirs
- gates, valves, pumps, and other flow control devices
- pipelines and associated control devices
- water supply and waste disposal systems

Recent State-Owned Transportation or Pedestrian Facilities:

- railroad grades converted to other uses, such as roads, levees, or bike paths
- light rail systems, including shelters, benches, and platforms
- bus shelters and benches
- airstrips and helicopter landing pads
- vista points and rest stops
- toll booths
- truck scales and inspection stations
- city streets, alleys, and park strips
- sidewalks, curbs, berms, and gutters
- bike paths, off-road vehicle trails, equestrian trails, and hiking trails
- parking lots and driveways

State-Owned Highway and Roadside Features:

- isolated segments of bypassed or abandoned roads
- retaining walls
- curbs, gutters, and walkways
- highway fencing, soundwalls, guard rails, and barriers
- drains and culverts, excluding culverts assigned a Caltrans bridge number
- cattle crossing guards
- roadside, median, and interchange landscaping and associated irrigation systems
- street furniture and decorations
- signs and reflectors
- parking meters
- street lighting and controls
- traffic lights and controls
- highway operation control, maintenance, and monitoring equipment
- telecommunications services, including towers, poles, dishes, antennas, boxes, lines, cables, transformers, and transmission facilities
- utility services, including towers, poles, boxes, pipes, lines, cables, and transformers
- oil and gas pipelines and associated control devices

Adjacent State-Owned Features:

- fences, walls, gates, and gateposts
- isolated rock walls and stone fences
- telephone booths, call boxes, mailboxes, and newspaper receptacles
- fire hydrants and alarms
- markers, monuments, signs, and billboards
- fragments of bypassed or demolished bridges
- temporary roadside structures, such as seasonal vendors' stands
- pastures, fields, crops, and orchards
- corrals, animal pens, and dog runs
- open space, including parks and recreational facilities
- building and structure ruins and foundations

Movable or Minor Objects:

- movable vehicles
- stationary vehicles less than 50 years old or moved within the last 50 years
- agricultural, industrial and commercial equipment and machinery
- sculpture, statuary, and decorative elements less than 50 years old or moved within the last 50 years.
- isolated mobile homes not within a mobile home park.

Resource Type 2: State-Owned Buildings, structures, objects, districts, and sites less than 30 years old

State-owned built-environment resources less than 30 years old may be exempted from evaluation, but their addresses or locations must be listed in "Section 9: Findings for State-owned Properties" of the Historic Property Survey Report (HPSR) or "Section 9: State-owned Historical Resources Findings" of the Historical Resources Compliance Report (HRCR). If the age of a resource is not readily discernible the date of construction may be confirmed by the district right-of-way files or other sources, such as USGS quadrangle maps or building permits, or by consulting a qualified Architectural Historian.

State-Owned Built-Environment Resource Types 3 through 7 Require Recordation

As stated above under the heading "Built Environment Resources," Category 5 bridges and culverts with bridge numbers do not need to be recorded on a DPR 523 Primary Record. For PRC 5024 inventory purposes, other state-owned built-environment resources types 3 through 7 must be recorded on DPR 523 Primary Record forms that are included in or created by the CCRD, and their addresses or locations noted in "Section 9: Findings for State-owned Properties of the HPSR or "Section 9: State-owned Historical Resources Findings" of the HRCR. No other DPR 523 form types are to be used. When the project or activity is the transfer of state-owned property out of Caltrans ownership, the location/address for Resource Types 3 through 6 need only be listed in the HRCR as noted above.

Resource Type 3: State-Owned Buildings, structures, objects, districts, and sites so altered as to appear less than 30 years old

Substantially altered state-owned resources that appear to be less than 30 years old (i.e. contemporary structures) may be exempted from evaluation, A qualified Architectural Historian shall review altered resources if they are listed in a local survey of historical properties, or if the extent of alterations or the age of a property is not readily discernible.

State-Owned Built-Environment Resource Types Exempt from Evaluation after Review by Qualified Architectural Historians:

State-Owned built-environment resource Types 4, 5, 6, and 7, described below, may be exempted from evaluation after review by one of the following qualified professionals: Caltrans Architectural Historians or Principal Architectural Historians, or Caltrans consultants who have been certified as meeting Caltrans architectural historian professional standards.

Resource Type 4: State-Owned Buildings, structures, objects, districts, and sites 30 to 50 years old

State-owned resources between 30 and 50 years old may be exempted from further evaluation. Consideration will be given to state-owned resources that may have achieved exceptional significance within the last 50 years, in accordance with National Register Bulletin 22.

Resource Type 5: State-Owned Buildings, structures, and objects moved within the past 50 years

State-owned resources that have been moved are not usually eligible for the National Register, with the exceptions noted in "Criteria Consideration B: Moved Properties" of National Register Bulletin 15. Therefore properties that were moved within the past 50 years may be exempted from evaluation. Resources moved more than 50 years ago shall be formally evaluated, unless they also qualify as resource types exempted from evaluation (e.g., a building moved before its period of significance but has since lost integrity through alterations) but the resources must be recorded on DPR 523 Primary Record forms that are included in or created by the CCRD, and their addresses or locations noted in the "Section 9: Findings for State-owned Properties of the HPSR or "Section 9: State-owned Historical Resources Findings" of the HRCR. Caltrans qualified Architectural Historians have discretion to identify and evaluate properties moved less than 50 years ago when there is demonstrable evidence to indicate that such identification and evaluation are warranted.

Resource Type 6: Altered State-Owned buildings, structures, objects, districts, and sites whose alterations appear to be more than 30 years old

State-owned resources that are more than 30 years old and have been substantially altered may be exempted from evaluation. Such resources may include roads and highways with associated features other than bridges, and railroads with associated features other than buildings or bridges. However, altered state-owned resources should be evaluated if they are listed in a local survey of historical properties or if eligibility conclusions might be controversial.

Resource Type 7: Post-World War II builders' houses and housing tracts

State-owned builders' houses or tract houses (not including unique, architect-designed houses) within housing tracts constructed after World War II may be exempted from evaluation when sufficient historical research and reconnaissance survey have been conducted to determine that:

1. The tract as a whole has no demonstrable potential to meet any of the National Register criteria as a historic district, and
2. No portion of the tract has demonstrable potential to meet any of the National Register criteria as a historic district, and
3. The individual houses have no demonstrable potential to meet any of the National Register criteria.

Consideration of potential significance shall be based on *Tract Housing in California, 1945-1973: A Context for National Register Evaluation* (Caltrans 2011).

ATTACHMENT 5
FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS

This attachment identifies three standard conditions that can be used to make a finding of "No Adverse Effect with Standard Conditions" in accordance with Stipulation X.B.1.a-c of the Memorandum of Understanding[1] (MOU) and that is documented in the Historical Resources Compliance Report (HRCR). Caltrans may propose that additional standard conditions be included by revision of this attachment in accordance with Stipulation X.B.1.d. Caltrans guidance that must be used in conjunction with this Attachment includes the Caltrans Standard Environmental Reference Volume 2-Cultural Resources (SER v.2), Exhibit 2.7 – Environmentally Sensitive Area Action Plan (ESA) Format and Content Guide, Exhibit 7.4 – Historic Bridges and Tunnels: No Adverse Effects with Standard Conditions, Exhibit 7.5 – Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS) Action Plan Format and Content Guide, and Exhibit 2.17 – Excess Property Transfers and Route Relinquishments.

1. ENVIRONMENTALLY SENSITIVE AREAS AS A STANDARD CONDITION

Environmentally Sensitive Areas (ESAs) are locations of state-owned archaeological sites, cultural sites or built-environment resources within the Project Area Limit (PAL) that are to be protected by avoidance or restrictions on Program activities. ESAs typically use fencing, flagging, signing, or monitoring to protect cultural resources from direct physical damage by project activities.

Caltrans PQS in the appropriate discipline (or local agency with Caltrans PQS oversight) will develop and provide ESA information to Project Development, Construction, and Maintenance Division personnel to protect state-owned cultural resources during project activities through implementation of an ESA Action Plan. Project Development shall include ESA information in construction plans, contract provisions, the Environmental Commitment Record (ECR) and the Pending File of the project's Resident Engineer (RE). During construction, the project RE shall ensure that contractors comply with the ESA requirements in the contract provisions. The Caltrans District Environmental Branch shall monitor construction and maintain contact with the RE on ESA compliance. For Local Assistance projects that affect state-owned cultural resources, Caltrans PQS shall ensure the local agency monitor their construction contractor to ensure compliance with all ESA requirements.

State-owned archaeological sites that can be protected by ESAs may be considered eligible for the purposes of the project or activity without subsurface excavation and/or surface collection in accordance with Stipulation VIII.C.3 of the MOU. Cultural sites that can be protected by ESAs may be considered eligible for the purposes of the project or activity in accordance with Stipulation VIII.C.4 of the MOU.

State-owned archaeological and cultural sites may have values other than information potential under Criterion D. ESAs may be applied to sites with cultural values that may qualify them as eligible under Criteria A, B, or C in addition to, or instead of, Criterion D only where the ESA

[1] Memorandum of Understanding Between the California Department of Transportation and the California State Historic Preservation Officer Regarding Compliance with Public Resources Code 5024 and Governor's Executive Order W-26-92, January 2015.

protects those values from all adverse effects. That determination must be made by a Principal Investigator in the applicable discipline (Prehistoric or Historical Archaeology), and as appropriate, after consultation with Indian tribes that may attach religious or cultural values to the resource or other consulting parties.

State-owned built-environment resources, regardless of ESA protection, must be evaluated for National Register and CHL eligibility unless approved in consultation with CSO pursuant to Stipulation VIII.C.4 of the MOU. As ESAs are designed to protect resources from direct effects, they may only be applied to built-environment resources when a PQS Principal Architectural Historian determines that the project or activity will not indirectly affect the built-environment resource. If there is potential for indirect effects, the Caltrans District shall proceed in accordance with Stipulation X.B.2 of the MOU.

The delineation of an ESA may be used to determine a finding of "No Adverse Effect with Standard Conditions" in accordance with Stipulation X.B.1.a of the MOU, provided that all of the following conditions are met and have been approved by the appropriate Caltrans PQS:

A. Adequate information is available to accurately delineate the resource boundary in relation to the anticipated project impacts and to identify contributing features of the resource. This information may be obtained from literature review, surface survey, subsurface testing, historical research, and/or consultation with Indian tribes.

B. The scope and design of the project or activity are sufficiently developed and detailed to ensure that the resource will be protected from all adverse effects.

C. All protection measures are defined (e.g., signing, staking, fencing, monitoring provisions) and included in the final construction plans, contract provisions, Environmental Commitment Record (ECR) and RE's Pending File. For Local Assistance projects that affect state-owned cultural resources, Caltrans PQS shall ensure the local agency complies with all ESA requirements.

D. A clear chain of command is established identifying specific tasks, responsibilities and contact information for each Caltrans or local agency staff, consultant or other party in the chain.

E. An ESA Action Plan is developed to ensure that provisions for protection are carried out and will be documented in accordance with Stipulation XVII of the MOU. This ESA Action Plan shall be attached to the "No Adverse Effect with Standard Conditions- ESA" finding.

Delineation of an ESA may also be used as an element of protection for a state-owned historical resource when specifically provided for by a condition in a finding of "No Adverse Effect" pursuant to Stipulation X.B.2 of the MOU, or as part of mitigation of adverse effects when specifically provided for in the mitigation section of the Historical Resources Compliance Report and Environmental Commitment Record developed pursuant to Stipulation X.C of the MOU.

Caltrans District PQS shall report all ESA violations to CSO within 48 hours. Caltrans Districts shall report ESA violations where state-owned cultural resources are impacted in accordance with Stipulation XIV.B of the MOU.

2. SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES AS A STANDARD CONDITION

Use of the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (1995), Weeks and Grimmer (SOIS) to avoid adverse effects may be considered a standard condition when an project or activity's activities are limited to stabilization, maintenance, repairs, rehabilitation, or alterations and these activities are completed in a manner consistent with the SOIS, the applicable SOIS guidelines, National Park Service Preservation Briefs, and applicable Caltrans guidance.

Because the SOIS are used mainly to avoid adverse effects to historic state-owned built-environment resources, they must be reviewed and approved by a Caltrans Principal Architectural Historian. Although rarely used for state-owned archaeological and cultural sites that are listed on or eligible for listing on the National Register of Historic Places (NRHP) or registration as a California Historical Landmark (CHL), use of the SOIS may be applied only when deemed appropriate by a Principal Investigator in Prehistoric or Historical Archaeology.

Application of the SOIS may be used to determine a finding of "No Adverse Effect with Standard Conditions" in accordance with Stipulation X.B.1.b of the MOU, provided that all of the following conditions are met and have been approved by the Caltrans PQS Principal Architectural Historian:

A. Adequate information is available to identify the character-defining features of the state-owned historical resource and accurately determine the scope of construction activities and their impacts on the resource. Information on the state-owned historical resource's character defining or essential physical features may be obtained from the NRHP or CHL nomination form for a listed resource, the NRHP or CHL determination of eligibility documentation, including the resource's DPR 523 form(s), or character defining features summary form, if one has been prepared.

B. The scope and design of the project or activity are sufficiently developed and detailed to ensure that the proposed work can meet the SOIS, and an analysis of the proposed work and how it meets the specific SOIS is reviewed and approved by a Caltrans PQS Principal Architectural Historian.

C. For code-related issues when use of prevailing codes and standards could result in an adverse effect or damage to the character-defining features of a state-owned historical resource, consultation with the Executive Director of the State Historical Building Safety Board has been completed and documented, and alternative provisions of the California Historical Building Code have been incorporated into the project or activity design and plans to avoid adverse effect to a state-owned historical resource.

D. All appropriate protection and avoidance measures are defined, including whether any materials testing is necessary, in sufficient detail in the plans and specifications provided, or to be provided for PQS review, and this information included in the final construction plans, contract provisions, Environmental Commitment Record and RE's Pending File. For Local Assistance projects that affect state-owned historical resources, Caltrans PQS shall ensure the local agency complies with all ESA requirements.

E. A clear chain of command is established identifying specific tasks, responsibilities and contact information for each Caltrans or local agency staff, consultant or other party in the chain.

F. A SOIS Action Plan is developed to ensure that provisions for protection are carried out and will be documented in accordance with Stipulation XVII of the MOU. This SOIS Action Plan shall be attached to the "No Adverse Effect with Standard Conditions–SOIS" finding.

During construction, the project RE shall ensure that contractors comply with the SOIS Action Plan guidelines in the contract provisions. The Caltrans District Environmental Branch shall monitor construction and maintain contact with the RE on the SOIS Action Plan compliance. For Local Assistance projects that affect state-owned historical resources, Caltrans PQS shall ensure the local agency complies with all SOIS Action Plan requirements.

3. TRANSFERS OF LOCALLY-DESIGNATED STATE-OWNED HISTORICAL RESOURCES (CLG DESIGNATION)

Under California law, local agency historic preservation ordinances are commonly used tools that cities and counties may use to protect from demolition, destruction or incompatible alterations those resources within their jurisdictions that are valued by their constituents as significant historical resources. Common components of these ordinances include the establishment of a commission to development local eligibility criteria and a process by which to designate resources, review guidelines for proposed demolitions and alterations, professional qualifications standards for those who review designations and proposed work, a public participation process, and enforceable penalties for noncompliance. Certified Local Governments[2] and their historic preservation ordinances meet National Park Service standards and requirements.

In order to protect a state-owned historical resource that will be transferred or relinquished to a local agency or private owner, a state-owned resource that has been designated by a CLG under its ordinance[3] may be considered a standard condition to avoid adverse effect when such designation has been completed prior to the transfer or relinquishment of that resource.

Because proposals to transfer or relinquish state-owned historical resources designated by a CLG are used mainly to avoid adverse effects to historic state-owned built-environment resources, these proposals must be reviewed and approved by a Caltrans Principal Architectural Historian. Although state-owned archaeological historical resources are rarely designated by a CLG, in those cases when archaeological historical resources so designated, the proposed transfers may be used only when reviewed and approved by a Principal Investigator in Prehistoric or Historical Archaeology.

[2] A CLG is general purpose political subdivision with land-use authority, such as a city or county, that has a historic preservation ordinance and commission, a system for identifying historic properties, enforceable legislation to designate and protect historic properties, and a public participation process that has been certified by the National Park Service as meeting its CLG requirements, and that is overseen by the SHPO as continuing to meet these requirements.

[3] This may be either an individual designation, or designation as a contributing element of a district under by CLG under its ordinance.

The Caltrans District may initiate nomination of a state-owned historical resource under a preservation ordinance enacted by a CLG. The nomination may be initiated at any time prior to the transfer, but the nominated historical resource must be successfully designated by the CLG prior to the transfer or relinquishment and the designation recorded by the County Recorder. Should the CLG deny the designation, then this standard condition may not be used.

ATTACHMENT 6
STANDARD MITIGATION OF STATE-OWNED ARCHAEOLOGICAL RESOURCES

In accordance with Stipulation X.C.1 of this Memorandum of Understanding (MOU), potential adverse effects to a state-owned archaeological resource or may be mitigated through data recovery to recover important information that would have been otherwise lost as a result of a project or activity. A Caltrans Principal Investigator in the appropriate discipline shall determine applicability of data recovery, and as applicable, the appropriate level of documentation for a data recovery plan.

When state-owned archaeological resources are significant under any of the National Register of Historic Places (NRHP) criteria and: have been determined eligible for listing in the NRHP; have been determined eligible for registration as a California Historical Landmark (CHL); or are on the Master List of Historical Resources because they are included in the NRHP or CHL, Caltrans shall consult with Indian tribes that ascribe religious or cultural significance to the affected historical resource, or with other interested parties, to determine whether and how the mitigation will adequately address the effects to those other values, as well as the appropriate methods for incorporating what is learned about the resource's significance into public outreach and education. When the results of that consultation are incorporated into the data recovery plan, Caltrans District may make a finding of No Adverse Effect - Standard Mitigation Measures (FNAE-SMM) and consult with CSO in accordance with Stipulation X.C.

A data recovery plan, at a minimum, shall include the following:

- Discussion of the NRHP and/or CHL significance of the resource.
- Research questions that are directly pertinent to those data sets that qualify the resource for inclusion in the NRHP under Criterion D.
- A discussion that explains why it is in the public interest to pursue answers to these research questions. The discussion should indicate whether, why, and how the public may benefit from the scope and nature of the information developed through data recovery, and demonstrate that the costs of proceeding with the data recovery are prudent and reasonable.
- Results of previous research relevant to the resource type.
- Proposed investigations (data needed to address research questions and the proposed methods and techniques to acquire that data, including any special studies).
- Field methods and techniques that will clearly and cost-effectively address the resource's structure and content in the context of the defined research questions and the resource's stratigraphic and geomorphic context.
- Laboratory processing and analyses, with justification of their cost-effectiveness and of their relevance to the resource and its research values.
- Methods and techniques used in artifact, data, and other record management.
- Provisions for ongoing Native American consultation, monitoring, and coordination, if Native American values or concerns are present or are likely to be present.

- Qualifications of key personnel.
- Disposition, including curation, of recovered materials and records resulting from implementation of the data recovery plan.
- Cost proposal.
- All required permits
- Report preparation schedule, including the names of parties to whom reports will be distributed upon completion.
- Monitoring provisions and procedures for evaluating and treating discoveries of unexpected finds during the course of the project, which may include consultation with other parties.
- Explicit provisions for disseminating research findings to professional peers in a timely manner.
- Plan for public involvement and educational or interpretive programs, focusing particularly on the community or communities that may have interest in the results.
- Any alternative measures that may have been negotiated with Indian tribes that ascribe religious or cultural significance to the affected historical resource, or other interested parties, to resolve any adverse effects.