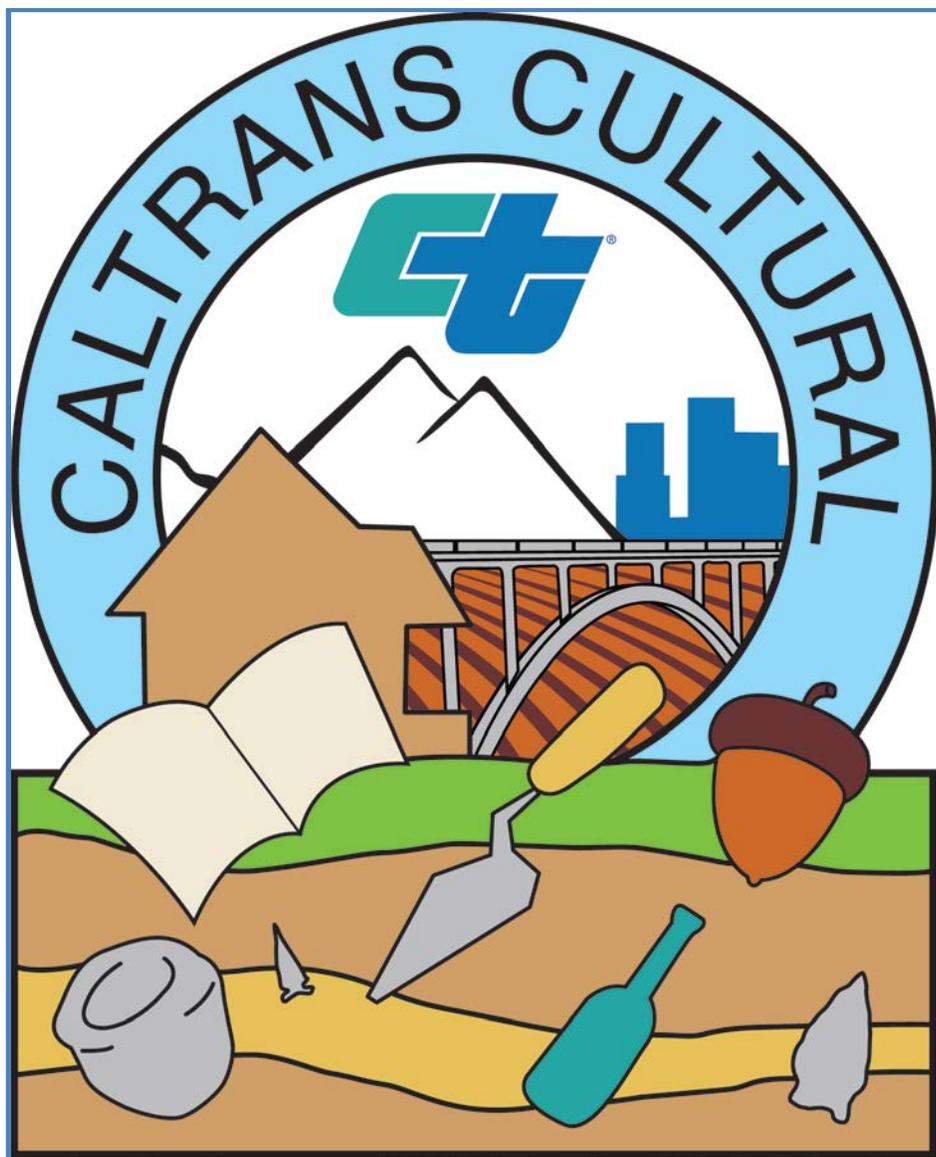


CALTRANS STANDARD ENVIRONMENTAL REFERENCE

VOLUME 2 – CULTURAL RESOURCES



January 2015

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Caltrans Standard Environmental Reference
Volume 2 - Cultural Resources
Exhibits

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

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2. Screened Undertakings
3. Area of Potential Effects Delineation
4. Properties Exempt from Evaluation
5. Findings of No Adverse Effect with Standard Conditions
6. Standard Treatment of Archaeological Sites: Data Recovery Plan
7. Local Bridge Seismic Safety Retrofit Program

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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Chapter 1: General Information

1.1 Introduction

The consideration of cultural resources is a critical part of all phases of project development, construction, permitting, right of way, and maintenance activities. The California Department of Transportation (Caltrans) must comply with federal and state environmental laws and regulations designed to protect cultural resources significant in American archaeology, architecture, history, culture, and engineering.

To meet legal requirements for cultural resources management, Caltrans personnel must follow the guidelines outlined in the Caltrans *Standard Environmental Reference (SER)*, Volume 2: Cultural Resources. The following is a synopsis of this volume.

Cultural resources are physical or observable traces of past human activity, regardless of significance, in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values. The term “cultural resources” typically refers to prehistoric and historical archaeological sites and built environment resources such as buildings, structures or districts.

Chapter 1 – General Information

The first chapter introduces Volume 2. It summarizes federal and state historic preservation laws and provides general background information on cultural resources management. This chapter identifies Caltrans' cultural resources policies and directs all units of Caltrans to follow these policies. Chapter 1 also describes the organization, roles and responsibilities, and staffing requirements that Caltrans uses to manage cultural resources.

Chapter 2 – Cultural Resources Procedures

The chapter discusses in detail the Section 106 Programmatic Agreement that governs Caltrans cultural resources actions on federally-assisted state and local projects: the *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California (106 PA)*. This agreement is included as [Exhibit 1.1](#) of the handbook. All actions taken under the 106 PA must be

conducted by or under the supervision of Caltrans Professionally Qualified Staff (PQS).

The chapter also discusses in detail the Public Resources Code 5024 Memorandum of Understanding (PRC 5024 MOU) that governs Caltrans cultural resources actions on state projects and activities that may affect Caltrans-owned cultural resources: the *2015 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 (PRC 5024 MOU)*. This agreement is included as [Exhibit 1.2](#) of the handbook. All actions taken under the PRC 5024 MOU must be conducted by or under the supervision of Caltrans Professionally Qualified Staff (PQS).

Chapter 2 contains instructions for processing cultural resources documents in compliance with federal and state laws. It specifically discusses compliance requirements of Section 106 of the National Historic Preservation Act and its relationship to Section 4(f) of the Department of Transportation Act, and at the state level, the California Environmental Quality Act and the Public Resources Code. Parallel segments for federal projects and for state-only projects describe pertinent legislation and compliance procedures, including identification, evaluation, and mitigation. The chapter discusses the types of reports required to document that cultural resources have been considered in Caltrans project planning.

[Chapter 3](#) – Native American Consultation

Chapter 3 presents Caltrans policy and procedures for coordination with Native Americans regarding cultural resources. It describes pertinent legislation and regulations that address Native American concerns and resources, including the federal and state Native American Graves Protection and Repatriation Act. The chapter sets forth the policy and procedures for obtaining a Native American Monitor, the roles of Monitors and Most Likely Descendants, and the issue of confidentiality relative to Native American cultural resources. It also defines Caltrans' relationship with the California Native American Heritage Commission (NAHC).

[Chapter 4](#) – Cultural Resources Identification

Chapter 4 discusses the process and procedures for identifying cultural resources within the project area. The chapter describes the types of cultural resources that Caltrans is expected to identify and the appropriate sequence of steps to follow for

determining whether recordation and evaluation would be necessary. It covers such topics as defining an Area of Potential Effects, background (or pre-field) research, initial archaeological and reconnaissance surveys. The final section in the chapter offers guidance for requesting the appropriate specialists to evaluate cultural resources that were identified in the initial steps as warranting evaluation.

Chapter 5 – Prehistoric Archaeological Resources: Evaluation and Treatment

Caltrans' methods and procedures for the evaluation and treatment of prehistoric archaeological resources are discussed in Chapter 5. There are sections that summarize Caltrans archaeological policies and describe Caltrans procedures to define and evaluate archaeological sites, conduct data recovery, and prepare the pertinent technical reports. Guidance is offered for field safety, preparing Archaeological Survey Reports (ASR), Excavation Proposals, Extended Phase I reports, Archaeological Evaluation Reports (AER), Phase III proposals and reports, and Data Recovery Plans. The chapter provides information on construction monitoring, environmentally sensitive areas, archaeological permits, and archaeological procedures to follow in the event of post-review discoveries or for activities not related to projects.

Chapter 6 – Historical Archaeological Resources: Evaluation and Treatment

Chapter 6 details Caltrans' methods and procedures for evaluating and treating archaeological sites from California's historic period. There are sections that summarize Caltrans archaeological policies and that describe Caltrans procedures to define and evaluate historical archaeological sites, conduct archival research and interviews, evaluate sites without excavation, prepare excavation proposals, conduct data recovery, and prepare pertinent technical reports. Guidance is offered for preparing Historical Resources Evaluation Reports (HRER) that evaluate historical archaeological sites, as well as Excavation Proposals, Extended Phase I and Phase II Reports, Treatment Plans, and Data Recovery Plans. There is also a section on field safety with particular emphasis on hazardous materials that may be encountered in historical archaeological sites.

Chapter 7 – Built-Environment Resources: Evaluation and Treatment

Chapter 7 outlines Caltrans' methods and procedures for recording, evaluating, and treating buildings, bridges, structures, objects, non-archaeological sites, and districts composed of such built features. There are sections that summarize Caltrans history

and architectural history policies and that describe Caltrans procedures to evaluate built cultural resources, the relationship between research and evaluation, and step-by-step procedures for processing HRERs. Chapter 7 offers mitigation options to be considered when historic properties may be affected by proposed transportation projects. Lastly, the chapter also explains Caltrans' legal responsibility for maintaining its historic buildings and structures.

1.1.1 Use of the Standard Environmental Reference, Volume 2: Cultural Resources

District and Headquarters personnel responsible for identifying and evaluating cultural resources, processing cultural resources documents, and implementing all construction, right of way, maintenance- and encroachment permit-related activities shall consult and comply with the standards and procedures defined in this volume. The *SER* Volume 2 also is intended to inform other parties, such as local agencies and consulting cultural resources practitioners, of Caltrans requirements and review procedures.

Situations in cultural resources management not covered in Volume 2 should be handled on a case-by-case basis. Districts are encouraged to take advantage of Cultural Studies Office ([CSO](#)) expertise by consulting with appropriate staff members when unusual situations occur. The CSO is part of the Division of Environmental Analysis (DEA) located in Headquarters in Sacramento.

The *SER*, Volume 2 does not stand alone. It should be used with other project planning and development guides and references including the *Standard Environmental Reference*, [Volume 1](#), and the [Project Development Procedures Manual](#).

Periodic reviews and modifications will occur when necessary to ensure that the procedures comply with current federal and state historic preservation laws and regulations.

1.1.2 Purpose

The purpose of this volume of the *SER* is to promote consistency, uniformity, and effective handling of cultural resources in the project development and implementation process. It is an instruction manual that defines the functions performed by cultural resources staff, both in the Districts and at Headquarters and also provides consultants with Caltrans requirements and review processes. Key areas covered in Volume 2 include:

- Caltrans policies and procedures regarding cultural resources.
- Compliance with federal and state historic preservation laws and regulations.
- Cultural resources management roles and responsibilities.

Definitions of key terms can be found in [Exhibit 1.3](#). Common acronyms and abbreviations are identified in [Exhibit 1.4](#) and in various places within the text of the chapters.

1.1.3 Transportation and Historic Preservation

Caltrans is required to comply with federal and state historic preservation laws and regulations. What follows is a summary of the evolution of historic preservation laws and Caltrans' involvement in managing cultural resources under its jurisdiction.

When Caltrans was created in 1973, succeeding the Division of Highways, its enabling legislation set forth key concepts and principles for Caltrans. The legislation emphasizes consideration of the environment, and requires that "environmental impacts of transportation should be taken into consideration." The Director's Environmental Policy (1992) states "Caltrans protects and enhances the environment..." and "evaluates the environmental benefits and consequences of its activities and implements practices that minimize environmental impacts."

The majority of Caltrans projects uses federal funds or requires federal licenses or permits and is therefore subject to federal environmental laws and regulations. Caltrans projects are also subject to the requirements of state environmental law. Caltrans' environmental process is designed to meet both NEPA and CEQA requirements. When projects have no federal involvement, only state environmental laws and regulations apply. The evaluation and treatment standards are similar for both federal and state-only projects; however, there is no concurrence with federal agencies on state-only projects.

1.2 Historic Preservation Laws and Regulations

1.2.1 General Policy

Both federal and state historic preservation legislation contain the same general policy: to preserve the quality of our historic and cultural environment by ensuring that cultural resources are given adequate consideration throughout the course of an undertaking and by providing significant cultural resources with the best protection possible. Because Caltrans must comply with federal and state laws and regulations regarding cultural resources, the same policy also forms the core of Caltrans general cultural resources policy. This general policy is more fully described in Section 1.2.4.

Understanding key historic preservation legislation can ensure compliance with the law and facilitate timely delivery of projects. Federal and state laws, their implementing regulations, and Caltrans policies direct the consideration of cultural resources in transportation planning, development, construction, permit issuance, right of way, and maintenance activities.

Statutes are laws enacted by Congress or a state legislature. Regulations are rules and procedures that are established by a government commission, board, agency, or department to implement and carry out the intent of statutes. The authority to promulgate regulations is provided in the legislation creating the statute. Regulations have the force of law, but they cannot exceed the scope and intent of the legislation. Policies are statements of broad intention issued by government agencies to direct agency actions and activities.

The following briefly summarizes the primary historic preservation laws and regulations and policies governing Caltrans' treatment of cultural resources.

1.2.2 Federal Historic Preservation Laws and Regulations

National Historic Preservation Act of 1966 [16 USC 470 et seq.]

The [National Historic Preservation Act](#), as amended (NHPA) sets forth national policy for protecting historic properties. Under Section 106 of NHPA, federal agencies are mandated to take into account the effect of federal undertakings on historic properties owned by federal agencies or affected by federally funded or federally approved undertakings. The NHPA also established the National Register of Historic

Places (NRHP), state historic preservation programs administered by a State Historic Preservation Officer (SHPO), and tribal historic preservation programs administered by a Tribal Historic Preservation Officer. It established the Advisory Council on Historic Preservation, an independent agency that is responsible for implementing Section 106.

The Advisory Council's [Section 106 regulations](#) are found at 36 CFR §800-800.16. [National Register Regulations](#) are published in 36 CFR §60, and [Determination of Eligibility Regulations](#) are published in 36 CFR §63.

For most projects, Caltrans uses an alternative process for compliance with Section 106. On January 1, 2004 the *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California (106 PA)* went into effect. It streamlines the Section 106 process for FHWA-assisted state and local projects in California. This agreement is included as [Exhibit 1.1](#) of the handbook. All actions taken under the 106 PA must be conducted by or under the supervision of Caltrans Professionally Qualified Staff. Consultants who conduct studies and prepare Section 106 reports are encouraged to consult with Caltrans Professionally Qualified Staff early in the process.

Section 4(f) of the Department of Transportation Act of 1966 **[\[49 USC 303 Section 4\(f\)\]](#)**

Section 4(f) of the Department of Transportation Act specifically protects public park and recreation lands, wildlife and waterfowl refuges, and historic sites. Under its provisions, a federally assisted highway project cannot adversely take properties of these types unless it can be shown that there is no prudent and feasible alternative to doing so. Section 4(f), as specifically related to cultural resources, applies when there is an actual taking of land from, or constructive use of, a historic property. Section 4(f) evaluation requires documentation of completion of the Section 106 process.

- [Section 4\(f\) Regulations](#) are found at 23 CFR §774. FHWA guidelines for Section 4(f) compliance can be found at:
- [FHWA | Environmental Review Toolkit | Section 4\(f\) | Overview](#)

National Environmental Policy Act of 1969 [42 USC 4321 et seq.]

The [National Environmental Policy Act](#) (NEPA) is the nation's broadest environmental law. NEPA applies to all federal agencies and most of the activities they manage, regulate, or fund that affect the environment.

NEPA includes cultural resources preservation within its general policy for environmental protection. It requires the preservation of important historic, cultural, and natural aspects of our national heritage and maintenance, wherever possible, of an environment that supports diversity and a variety of individual choices. Cultural resources are considered in the preparation of all NEPA documents.

The Council on Environmental Quality established [NEPA regulations](#), which can be found at 40 CFR §1500-1508.28.

Other Federal Laws Affecting Cultural Resources

National Historic Sites Act of 1935	16 USC Part 461 et seq.
Urban Mass Transportation Assistance Act of 1970	49 USC 5301
Archeological and Historic Preservation Act of 1974	16 USC 469-469c-2
American Indian Religious Freedom Act of 1978	42 U.S.C 1996
Archaeological Resources Protection Act of 1979	16 USC 470aa-11
Native American Graves Protection and Repatriation Act of 2000	25 USC 3001-3013

These laws are briefly described in [Exhibit 1.5](#).

1.2.3 State Historic Preservation Laws and Regulations

California Environmental Quality Act of 1970 (CEQA) [PRC §21000 et seq.]

[CEQA](#) is the foundation of environmental law and policy in California. It encourages the protection of all aspects of the environment, including historical resources, by requiring state and local agencies to take into consideration the environmental effects of their actions. CEQA establishes that “it is the policy of the state...to take all action necessary to provide the people of the state with...historic environmental qualities.”

The [CEQA Guidelines](#) are the implementing regulations for CEQA. They are part of the California Code of Regulations (CCR) §1500 et seq. and are issued by the Governor's Office of Planning and Research (OPR) and the Secretary of Resources.

**State Owned Historical Resources (1980 Senate Bill 1652)
[PRC 5024 and 5024.5]**

Public Resources Code [PRC 5024](#) requires each state agency to prepare inventories of state-owned historical resources under its jurisdiction, to "formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction," and to provide notice and summary documentation to the SHPO regarding any "project having the potential to affect historical resources listed in or potentially eligible for inclusion in the National Register of Historic Places or registered as or eligible for registration as a state historical landmark."

Under [PRC 5024.5](#), state agencies are required to provide notice to, and consult with, the SHPO before altering, transferring, relocating, or demolishing state-owned historical buildings and structures that are listed in or potentially eligible for inclusion in the NRHP or registered as or eligible for registration as a California Historical Landmark (CHL). All prudent and feasible measures must be adopted to avoid or mitigate adverse effects.

The State Historical Resources Commission has not adopted regulations for the implementation of these statutes.

**Emergency Projects (1989 Senate Bill 3x)
[PRC 5028]**

No historical resource that is damaged due to natural disaster and that is listed in the National or California Register of Historical Resources (CRHR) or on a local public register can be demolished or destroyed unless it is an imminent threat to public safety or may damage an adjacent property and unless the State Office of Historic Preservation determines that it may be demolished.

The State Historical Resources Commission has not adopted regulations for this statute.

California Register of Historical Resources (1992 Assembly Bill 2881) **[\[PRC 5024.1\]](#)**

Public Resources Code 5024.1 established the California Register of Historical Resources (CRHR). The register is a listing of resources considered to be significant historic properties, that is, "historical resources," in the state. The CRHR includes all properties listed or determined eligible for listing in the NRHP, including properties evaluated under Section 106. Also, it may include, if nominated to the NRHP and found to be significant by the State Historical Resources Commission, resources listed in local registers of historic resources or in local surveys. The criteria for listing are similar to those of the NRHP. The NRHP statute specifically provides that historical resources listed in, or that meet the criteria for listing in, the NRHP, are historical resources that must be given consideration under CEQA (see above).

The State Historical Resources Commission adopted the implementing regulations for the NRHP in 1998 (Title 14 CCR, §4850 et seq.).

Executive Order [W-26-92](#) (Governor Wilson 1992)

This order requires state executive branch agencies to take specific measures to preserve significant state-owned properties, to appoint agency preservation officers, to administer historic properties under their control, regardless of ownership, in a spirit of stewardship, and to report annually to the SHPO on these activities. The Caltrans Preservation Officer is the Chief, Division of Environmental Analysis.

Other State Laws Affecting Historical Resources

PRC 5020.1	Historical Resources Definitions
PRC 5021/ 5031 et seq.	California Historical Landmarks and Points of Historical Interest
PRC 5097.5	Disturbance of Archeological Sites
PRC 5097.9 et seq.	Native American Historical, Cultural, and Sacred Sites
H&SC 8010 et seq.	California Native American Graves Protection and Repatriation Act of 2001

These laws are briefly described in [Exhibit 1.5](#).

1.2.4 Caltrans Cultural Resources Policies

The Director's Environmental Policy (1992)

The Director's Policy states that Caltrans evaluates the environmental benefits and consequences of its activities and implements practices that minimize environmental impacts. The policy intent is to identify, resolve, and include environmental issues when planning transportation projects. It outlines the responsibilities of Caltrans executives and employees for promoting environmental awareness and carrying out Caltrans policy in the course of their duties.

Project Development Procedures Manual (last updated in 1999)

Caltrans' position on the preservation and protection of important cultural resources is defined in the Project Development Procedures Manual. In the project development process, it is Caltrans philosophy to balance transportation needs with other societal values to ensure that economic, social, and environmental effects are fully considered along with technical issues when transportation projects are developed.

Responsibilities to Implement Cultural Resources Policies

Caltrans cultural resources policy is set forth in this volume of the *SER*. All Caltrans activities, from project development and planning through encroachment permit, construction, and maintenance activities, are subject to the policies and procedures outlined in this volume.

District Directors and functional managers shall implement Caltrans' cultural resources policies in encroachment permits, maintenance, construction, and all project planning and development activities. Construction, maintenance, and encroachment permit activities generally have the greatest potential for impact. They can affect historical resources, including historic bridges still on the system, state-owned historic buildings, archaeological sites within existing right of way, and other properties in or adjacent to a project area.

1.2.5 General Considerations

In accordance with Caltrans cultural resources policies, Caltrans personnel must consider the following steps when undertaking an activity:

- Identify cultural resources early in the transportation planning and project development process.

- Coordinate and cooperate with Indian tribes, individuals, and organizations having a professional or cultural interest and with agencies charged with the responsibility of preserving or enhancing these resources.
- Evaluate the significance of cultural resources that may be affected by proposed projects.
- Assess potential effects of proposed transportation projects on significant cultural resources.
- Discuss conclusions in environmental documents regarding the significance of identified cultural resources and the effect of the proposed undertaking or project on them.
- Develop project plans to avoid significant cultural resources whenever possible.
- Develop and implement mitigation measures when avoidance is not practical.

Specific procedures to be followed in identifying and evaluating cultural resources and in developing mitigation plans are provided in the appropriate Chapters 2 through 7 of this volume.

1.2.6 Considerations in Special Circumstances

The considerations listed above apply to normal project planning and implementation. There are two special circumstances that may require different considerations and procedures:

1.2.6.1 Post-Review Discovery

Three chapters of this volume contain provisions for the discovery of previously unidentified cultural resources. Chapter 2, [Section 2.4.4](#) “Post-Review Discoveries,” offers guidance to assist Caltrans personnel in planning for the possibility of unexpected discovery of cultural resources and of unexpected effects on known historic properties. [Chapter 3](#) outlines procedures that shall be followed if human remains are discovered during any Caltrans activity. [Chapter 5](#) outlines procedures that shall be followed if previously unidentified archaeological resources are encountered during construction, maintenance, or encroachment permit work. Caltrans personnel shall follow the appropriate procedures outlined in these sections. In the event of a post-

review discovery for local agency projects with Caltrans involvement, the agency or its consultant should confer directly with Caltrans Professionally Qualified Staff.

1.2.6.2 Emergency Undertakings

Procedures outlined in Chapter 2 [Section 2.4.2](#), "Emergency Undertakings," describe the steps to be taken in the event of an emergency or disaster. Emergency undertakings are essential and immediate responses to officially declared disasters. They must be implemented within *30 days* after the disaster occurred. For federal projects, FHWA may apply the procedures in [36 CFR §800.12](#). For state projects, the applicable emergency procedures are defined in the PRC [5028](#) and in the CEQA Guidelines at PRC [15269](#).

1.3 Cultural Resources Organization and Functions

Caltrans' environmental policies were crafted to encourage coordination among the responsible units. The following section describes the organization and functions of the units responsible for cultural resources management within Caltrans, and identifies the roles and responsibilities of cultural resources staff.

The responsibility for managing cultural resources under Caltrans jurisdiction is placed with the Environmental Branches at the District level and the Cultural Studies Office (CSO) in the Division of Environmental Analysis in Headquarters. This section of the handbook defines roles and responsibilities of cultural resources personnel and describes the appropriate personnel classifications and qualifications.

1.3.1 District Roles and Responsibilities

The District (or Region where applicable) Environmental Branches independently administer and perform all cultural resources functions for the District, with assistance or review by Headquarters on request.

1.3.1.1 District Responsibilities

Districts have the ultimate responsibility for the quality and timeliness of all cultural resources studies, regardless of who prepared the studies. Duties and responsibilities include:

- Schedule and coordinate cultural resources tasks to meet project development milestones.

- Conduct cultural resources studies, using appropriately qualified personnel, as described in Section 1.3.3 below.
- Prepare cultural resources reports as documentation for project compliance.
- Provide peer review of cultural resources studies by qualified District cultural resources specialists, or request CSO peer review when District lacks appropriately qualified cultural resources specialists.
- Approve and process Section 106 documents for federally funded projects.
- Approve and process CEQA documents for state-funded projects.
- Coordinate with the Federal Highway Administration (FHWA) and the SHPO, and/or Tribal Historic Preservation Officer (THPO) if applicable, on Section 106 documents processed by the District.
- Prepare Historical Resources Compliance Reports (HRCR) for PRC 5024 and 5024.5 review of projects affecting state-owned resources.
- Conduct data recovery of archaeological historic properties according to appropriate standards and as directed in Section 106 agreement documents, in Districts with appropriately qualified staff.
- Provide copies of all Section 106, CEQA, and PRC 5024 documents, all technical documents, and all correspondence with outside agencies, Indian tribes, and other Native Americans, relative to the Section 106 and CEQA environmental compliance processes, to CSO.
- Arrange and schedule assistance of CSO specialists for archaeological, historical, architectural, and bridge surveys, evaluations, and mitigation.
- Provide copies of Section 106 and CEQA documents when requesting CSO comments.
- Notify CSO of all unusual situations, especially emergencies involving possible effects on cultural resources.
- Contract with California Native American Monitors, as needed.

- Review District Local Assistance reports/projects, and when appropriate, provide comments to improve compliance with existing historic preservation laws.
- For Districts with qualified archaeologists:
 - ◆ Approve District-prepared Extended Phase I and Phase II proposals and District-prepared AERs.
 - ◆ Approve proposals to contract out AERs.
 - ◆ Review and approve AERs.
 - ◆ Prepare archaeological scopes of work.
 - ◆ Approve archaeological scopes of work in archaeological excavation contracts.
- For Districts with qualified architectural historians:
 - ◆ Prepare built-environment scopes of work.
 - ◆ Review proposals to contract out built-environment surveys and evaluations,
 - ◆ Review and approve built-environment Historical Resources Evaluation Reports
 - ◆ Review and approve projects, plans and specifications for consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS).
 - ◆ Review and approve SOIS action plans.

1.3.1.2 District Roles

This section defines positions in the District Environmental Branches, which deal specifically with the management of cultural resources.

District Environmental Branch Chief

The District Environmental Branch Chief (DEBC) oversees and directs the cultural resources compliance process in the Districts. To assist in this process, the DEBC

shall designate a Heritage Resources Coordinator (HRC) and a District Native American Coordinator (DNAC).

District Heritage Resources Coordinator

Each HRC serves as the designated source of information on the subject of cultural resources policies and procedures. The HRC is the District's communications liaison with CSO and may serve as the District advisor regarding cultural resources. The actual functions assigned to the HRC are at the discretion of the DEBC and vary widely by District.

As directed by the DEBC, the HRC may be charged with some or all of the following responsibilities:

- Track the progress of projects through the Section 106 compliance process.
- Collect information for the District's Annual Report submitted to SHPO documenting actions taken under the Programmatic Agreement.
- Schedule cultural resources studies.
- Prepare cultural resources technical reports.
- Process federal or state cultural resources compliance documents.
- Handle correspondence on cultural resources matters between the District, Headquarters, and FHWA, providing CSO copies of all Section 106, CEQA, and PRC 5024 documents and all correspondence with FHWA, SHPO, Advisory Council on Historic Preservation (Council), and other outside agencies relative to the Section 106 and CEQA environmental compliance processes.
- Provide guidance on District cultural resources issues, including but not limited to:
 - ◆ Maintaining cultural resources information pertinent to conducting cultural resources studies, such as updates of NRHP and CRHR listings and determinations of eligibility, CHLs and Points of Historical Interest, and lists of locally designated historical resources.
 - ◆ Acting as a clearinghouse for cultural resources information, distributing cultural resources-related general information, memos, and guidance, such

as National Register Bulletins and cultural resources management notes, to district cultural resources staff and DEBCs.

District Native American Coordinator

The District Native American Coordinator (DNAC) is the designated source of information regarding the involvement of Native Americans in the District's cultural resources studies. The DNAC ensures that consultation with Native Americans regarding cultural resources occurs early in a project's planning stage, and continuously throughout the life of projects, and ensures that documentation of contacts and consultation for cultural resources is included in compliance and environmental documents.

Under the general direction of the DEBC, the DNAC acts as liaison between the DEB and Native American tribes, groups and individuals, provides specialized technical assistance on Native American consultation to the District's staff, consultants, and contractors, and coordinates with Transportation Planning and Civil Rights Native American Liaisons on issues of mutual concern.

The DNAC perform the following activities, or provides assistance and advice to other staff in conducting them:

- Consults with federally recognized Indian tribes and unrecognized Indian groups and individuals on a project-by-project basis for all phases of cultural resources studies.
- Consults with Native Americans, who are likely to have knowledge of, or concerns with, cultural resources, such as gathering places, within Caltrans right of way.
- Facilitates meetings and discussions between Caltrans staff and Native American representatives.
- Develops agreements with Native American representatives.
- Coordinates with other Caltrans programs including Maintenance, Right of way and Design to address areas of Native American concerns.
- Maintains files of all correspondence and documentation of coordination and consultation for projects.

- Provides a summary, when necessary, of consultation for inclusion in cultural resource reports and environmental documents.
- Provides and maintains guidance on District Native American issues, including but not limited to:
 - ◆ Maintaining a library on laws, regulations, guidance, and other such information pertinent to consultation with Native Americans and ensuring that the library is accessible to District staff.
 - ◆ Disseminates policy, procedures, and information on Native American issues to district cultural resources staff and DEBCs.

District Cultural Resources Specialists

When appropriate, Districts will hire qualified professional archaeologists, historical archaeologists, or architectural historians to conduct surveys and evaluations and prepare reports that will be used to comply with appropriate federal and state historic preservation laws and regulations. Professional qualifications are described below in Section 1.3.3, Cultural Resources Staff Qualifications, and in [106 PA/5024 MOU](#)ⁱ Attachment 1.

1.3.2 Headquarters Roles and Responsibilities

The Cultural Studies Office ([CSO](#)) in Headquarters DEA develops cultural resources policy and procedures, monitors implementation, and provides assistance to the Districts on request. CSO staff also is staff to the Caltrans Preservation Officer.

The office includes four branches:

- Section 106 and Programmatic Agreement Coordination (Section 106) Branch
- Built Environment Preservation Services Branch (BEPS)
- Native American Cultural Studies Branch (NACS)
- Special Projects Archaeology (SPA) Branch

ⁱ Attachment 1 is the same under both the 106 PA and the 5024 MOU.

1.3.2.1 Headquarters Responsibilities

The major responsibility of the CSO is to ensure that the Caltrans' cultural resources programs, policies, and procedures comply with federal and state legislation. In addition, CSO is responsible for ensuring that work performed to assist the Districts meets District requirements and scheduling.

The CSO's functions include:

- Under NEPA assignment, for all Section 106 compliance, CSO is FHWA and undertakes all FHWA responsibilities for Section 106 compliance.
- Upon district request, provide peer review of cultural resources study reports prior to DEBC approval.
- Prepare archaeological scopes of work and excavation research designs and undertake contract administration and monitoring for Districts requesting assistance.
- Develop guidance manuals, training courses, and workshops in consultation with the Districts and assist the DEA training unit.
- Coordinate with federal agencies, SHPO, the Keeper of the National Register if necessary, and the Council on Section 106 issues handled by DEA or at the request of the Districts.
- Conduct consultations, coordinate with SHPO and approve actions as delegated by to CSO by the 5024 MOU.
- Inform the Chief, Division of Environmental Analysis, of all unusual situations, especially emergencies involving possible effects on cultural resources.
- Authorize archaeological excavations through preparation of proposals for Districts without appropriately qualified archaeologists.
- Upon District request, review cultural resources studies (including Historic Resource Evaluation Reports, Archaeological Evaluation Reports, Data Recovery Plans, Treatment Plans, Finding of Effect documents, and Memoranda of Agreement).

- Prepare and process, review, or provide advisory comments on Section 106 and CEQA documents for Districts requesting assistance.
- With district input, compile the Annual Reports that are submitted to SHPO documenting actions taken under the 106 PA and the 5024 MOU.
- Upon request, document historic properties according to appropriate standards, as directed in Section 106 agreement documents or in compliance with CEQA, and for state-owned historic properties, PRC 5024.
- Conduct joint activities, such as strategy meetings, with the Districts.
- Evaluate District cultural resources programs and activities if requested.
- Certify District and CSO cultural resources staff as PQS, including archaeologists, historical archaeologists, and architectural historians.
- Evaluate consultant cultural resources personnel qualifications at District request.
- Review and analyze pertinent historic preservation legislation.
- With district and other division input, and in accordance with Governor's Executive Order W-26-92 develop and institute feasible and prudent Caltrans policies and management plans to preserve and maintain its historical resources and ensure such policies and management plans are carried out.

1.3.2.2 Headquarters Roles

The CSO has on staff cultural resources specialists in the fields of prehistoric and historical archaeology, architectural history, history, Section 106, PRC 5024 processing, and Native American coordination. These specialists provide service to the Districts and other Headquarters units needing assistance. Specific functions are defined below.

Caltrans Preservation Officer

The DEA Chief at Headquarters in Sacramento is the Caltrans Preservation Officer (CPO). As required by the Governor's Executive Order W-26-92, the CPO is responsible for consulting with the SHPO, and, as appropriate, the State Historical Building Safety Board in the development of a management plan that institutes feasible and

prudent policies to preserve and maintain its significant heritage resources. These responsibilities have been delegated to the Cultural Studies Office Chief.

Section 106 and Programmatic Agreement Coordination (Section 106) Branch

The Section 106 and Programmatic Agreement Coordination Branch, as assigned by FHWA, reviews and/or approves various Section 106 findings as described in the 106 PA, assists the Districts on Section 106 procedural questions and interpreting application of the 106 PA, coordinates peer reviews of Section 106 compliance documents, and acts as a liaison between the Districts and the SHPO's office. The Section 106 branch organizes the periodic statewide teleconferences to discuss the 106 PA and other cultural resources matters, and distributes the Caltrans "106 Bulletins" and other pertinent guidance (106 PA Teleconference Notes), and can provide current examples of Memoranda of Agreement. The HACS arm of the branch conducts peer reviews of historic property evaluations, effect findings related to the built environment, including buildings, bridges, structures, objects, complexes, linear features, districts, and landscapes upon District request. The HACS Branch may also help determine whether built environment properties are exempt from Section 106 evaluation in accordance with Attachment 4 of the Section 106 Programmatic Agreement; accompany District staff on field visits; assist with project scoping activities; and aid in developing mitigation measures for built environment resources.

Built Environment Preservation Services (BEPS) Branch

The Built Environment Preservation Services Branch reviews and/or approves various PRC 5024 findings as delegated under the PRC 5024 MOU, assists the Districts on PRC 5024 procedural questions and interpreting application of the PRC 5024 MOU, coordinates peer reviews of PRC 5024 compliance documents, and acts as a liaison between the Districts and the SHPO's office for PRC 5024 and Governor Executive Order W-26-92 activities.. The BEPS Branch Chief serves as Caltrans representative to the State Historical Building Safety Board on issues related to the California Historical Building Code and is the liaison with that board. The Branch also updates guidance this volume of the *SER*.

The BEPS Branch may also help determine whether built environment properties are exempt from Section 106 evaluation in accordance with [106 PA Attachment 4](#), and conducts peer reviews of historic property evaluations, effect findings related to the

built environment, including buildings, bridges, structures, objects, complexes, linear features, districts, and landscapes upon District request.

Upon request, the branch reviews plans and specifications for conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, provides guidance and coordination on the appropriate use of the State Historical Building Code, mitigation measures to avoid or reduce adverse effects to non-archaeological historic properties and historical resources affected by Caltrans projects and activities, identification and ranking of character defining features of historic properties and resources, language for protective covenants, historic property maintenance and rehabilitation standards, and heritage mitigation documentation, such as Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER) and Historical Landscapes Survey (HALS) documentation.

Native American Cultural Studies (NACS) Branch

The Native American Cultural Studies Branch provides guidance, advice, training, and support to the Districts in working with Native American individuals, groups, and tribes on identifying and addressing cultural and environmental concerns. The Branch also works with Native Americans directly, either to establish working relationships with DEA, or as requested by districts, to facilitate project delivery. The NACS Branch Chief serves as the Statewide Native American Coordinator and serves as the DEA's representative on the Department's Native American Advisory Committee. The Branch Chief is the Division's liaison with other Departmental units and Native American Liaisons to assist in developing an integrated and consistent approach to Native American relations and is the liaison with the Native American Heritage Commission, State Historic Preservation Office, Advisory Council on Historic Preservation, Federal Highway Administration, U.S. Bureau of Indian Affairs, and other state and federal agencies regarding Native American spiritual and cultural resource concerns. The Branch Chief monitors and evaluates pertinent state and federal legislation and regulations, disseminates that information to the districts, and seeks to ensure that the Department is in compliance with such laws

Special Projects Archaeology (SPA) Branch

The Special Projects-Archaeology branch provides advice and guidance on issues related to the management and preservation of archaeological resources with special emphasis on review of complex studies and compliance documents in the area of pre-historic archaeology including evaluations, data recovery plans, and contract

management. The branch is responsible for review and comment on cultural mitigations in excess of \$500,000 per DEA policy, acts as the designated “owner” of construction contract specification standards for cultural resources and review of Non-Standard Special Provisions (NSSPs), and coordinates with the Environmental Management Office (EMO) in the design and delivery of training for cultural staff statewide. The branch is also involved in strategic planning, identifying research priorities and funding, organizing statewide task groups on critical cultural issues, and the planning of functional workshops.

1.3.3 Cultural Resources Specialists Roles

The following cultural resources specialists provide professional and technical expertise in the identification, survey, evaluation, and mitigation of effects on cultural resources. The Headquarters CSO has professional staff in the specialized fields listed below. All Districts have archeological staff but vary in their staffing in other fields of expertise. The PQS levels of required expertise to conduct specific types of tasks under the 106 PA and the PRC 5024 MOU are defined in [Exhibit 1.6](#).

Prehistoric Archaeology

Staff prehistoric archaeologists conduct and participate in archaeological surveys and excavations and manage the work of consultants in accordance with their level of qualification. Staff prehistoric archaeologists prepare archaeological documents, review archaeological reports, and evaluate archaeological properties to determine potential eligibility for inclusion in the NRHP or to determine whether archaeological resources are significant historical resources for the purposes of CEQA. They also prepare scopes of work for contracts and administer and monitor archaeological studies performed by consultants. Additional responsibilities include reviewing other cultural resources specialist-prepared reports to ensure that prehistoric archaeological sites are adequately treated. In addition and upon request, prehistoric archaeologists assist in the preparation of Findings of Effect and Memoranda of Agreement.

Historical Archaeology

Staff historical archaeologists conduct and participate in historical archaeological surveys and excavations, and manage the work of consultants in accordance with their level of qualification. They prepare historical archaeological documents, review historical archaeological reports, and evaluate historical archaeological properties to determine potential eligibility for inclusion in the NRHP or to determine whether ar-

chaeological resources are significant historical resources for the purposes of CEQA. Staff historical archaeologists also prepare scopes of work for contracts and administer and monitor historical archaeological studies performed by consultants. In partnership with architectural historians, historical archaeological staff prepare Historical Resources Evaluation Reports (HRER) when cultural resources contain both historical archaeological components and built resources (such as buildings, structures, sites, objects, districts). Staff historical archaeologists also provide advice on any required historical archaeological studies, investigations, and excavations. Additional responsibilities include reviewing other cultural resources specialist-prepared reports to ensure that historical archaeological sites are adequately treated. In addition and upon request, historical archaeologists assist in the preparation of Findings of Effect and Memoranda of Agreement.

Architectural History and History

Caltrans architectural historians and historians perform nearly identical functions and are not separately identified in 106 PA Attachment 1. Throughout the rest of this handbook, the term “architectural historian” is used to refer to both architectural historians and historians.

Architectural historians identify and evaluate built environment cultural resources (buildings, bridges, structures, objects, districts, and sites of events) to determine potential eligibility for inclusion in the NRHP and to determine whether these resources are significant historical resources for the purposes of CEQA. These features may also include historic landscape features, transportation or industrial facilities, and other resources. When cultural resources include historical archaeological sites, staff architectural historians work in partnership with historical archaeologists in background research, site evaluation, and documentation. They prepare Historical Resource Evaluation Reports for built environment resources and designed landscapes. They also review other cultural resources specialist-prepared reports to ensure that local architectural history, architecturally important resources, and regional history or historic sites are adequately treated. In addition and upon request, architectural historians assist in the preparation of Findings of Effect and Memoranda of Agreement.

In addition to federal Section 106 responsibilities, under state law Caltrans has stewardship responsibilities towards the historical resources it owns. These

responsibilities often involve the maintenance, repair or rehabilitation of historical buildings and structures.

1.3.4 Cultural Resources Staff Professional Qualifications

1.3.4.1 Civil Service Classifications

Caltrans environmental personnel are classified under the State Personnel Board classification system within the Environmental Planner series. This series provides for generalist and specialist classes. The civil service classifications for specialists in cultural resources at the entry or associate level are Environmental Planner (Archaeology), which includes both prehistoric and historical archaeologists, and Environmental Planner (Architectural History), which includes both architectural historians and historians. All specialists must meet minimum professional qualification standards for whatever duties they are assigned. Generalists, as well as specialists, often coordinate and manage cultural resources document preparation and processing and provide liaison with FHWA.

1.3.4.2 State Standards

The California State Personnel Board established state standards for the archaeology, architectural history, and generalist classes of the Environmental Planner series. People employed by Caltrans must meet the minimum requirements set by these specifications in order to perform duties in the fields of archaeology, architectural history, history, and related cultural resources functions. Caltrans must ensure that cultural resources specialists meet the appropriate minimum requirements when hiring and promoting cultural resources staff.

1.3.4.3 Federal Standards

The [Secretary of the Interior's Professional Qualification Standards](#) (1983) established professional qualifications standards for cultural resources specialists involved in historic preservation activities at all levels of government. Federal standards are generally more stringent than the State Personnel Board standards. In addition to applying the state standards in hiring cultural resources staff, Caltrans uses the federal qualifications as a guide. Using both sets of standards is designed to provide a credible and competent staff, and to ensure that Caltrans staff meet the standards of the federal agencies that review Caltrans' work in cultural resources management. Furthermore, Caltrans, FHWA, and SHPO have agreed that Caltrans staff performing

work under the 106 PA must meet the requirements of Professionally Qualified Staff (PQS) as described in [106 PA Attachment 1](#).

1.3.5 Caltrans Professional Standards and Professionally Qualified Staff

Caltrans employees who perform activities stipulated in both the 106 PA and the 5024 MOU mentioned above, and those who conduct studies, peer review work and perform activities in compliance with state cultural resource laws and regulations must be certified as PQS by meeting the qualifications in the appropriate discipline(s) outlined in the [106 PA/5024 MOU Attachment 1](#). The professional standards in Attachment 1 of both the Section 106 PA and the PRC 5024 MOU are identical. Therefore, whenever Section 106 PA Attachment 1 is mentioned, it also refers to the PRC 5024 MOU Attachment 1 for projects and activities that involve state-owned cultural resources. The CSO Chief is responsible for PQS certifications.

Caltrans employees who perform primarily archaeological functions are subject to a third set of qualification criteria. These criteria designate working titles, not civil service classifications. They are based on the federal criteria and on guidelines set forth by the Register of Professional Archaeologists (RPA) and are codified in the 106 PA as distinct PQS levels. Specifically, staff may be qualified as a Crew Member, Lead Archaeological Surveyor, Prehistoric or Historical Archaeological Co-Principal Investigator, or Prehistoric or Historical Archaeological Principal Investigator depending on education and experience. These standards were developed to ensure that Caltrans' archaeological work is considered credible by review agencies, peer groups, and other outside groups that have knowledge and experience in dealing with archaeological resources. See [106 PA Attachment 1](#).

It is in Caltrans' best interest to have qualified staff with specialized training or experience developing or providing oversight on plans and mitigation measures that directly (physically) affect historic buildings, structures, objects and districts. In Caltrans, the appropriate staff is typically the Principal Architectural Historians. Projects and activities that involve the rehabilitation or alteration of historic bridges, structures or buildings, and mitigation measures for which plans, specifications, management plans or historic structure reports would be prepared are typically the kinds of activities that need specialized expertise. Appropriate education and experience would include:

- Specialized training or 2 or more years of professional experience in such areas as architectural preservation, conservation, historic construction technologies, or historic building materials that demonstrates the ability to make professional judgments about the treatment of historic buildings and structures. Training and/or experience may include preparing or reviewing research and detailed investigations of historic structures, such as a Historic Structure Report that assesses the character-defining features and physical conditions of a historic building or bridge; preparing or reviewing recommendations for the treatment of properties in accordance with the [*Secretary's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*](#); documentation that meets HABS/HAER standards for recording historic buildings or structures; mitigation measures for project that physically impact historic buildings or structures and such measures were approved by a SHPO.

Principal Architectural Historians with requisite education and experience ensure the applicability of the California Historical Building Code for state-owned historical resources.

1.3.6 Certification Process for Caltrans Professionally Qualified Staff

Training in the use of the 106 PA must be completed prior to applying for certification. Application forms and instructions are available on the Caltrans DEA-CSO Section 106 Agreement and Guidance Intranet web site (accessible only to in-house Caltrans staff) under "PQS Certification Forms." Complete the application for the appropriate certification level. Both the applicant *and* his or her supervisor sign the

application. Mail or email the completed application to the CSO Chief for review and approval. Upon review, the CSO Chief will send a certification memo to the applicant and his or her supervisor either approving the certification or explaining why the certification was not approved.

1.3.7 Cultural Resources Consultant Professional Qualifications

All consultants performing work under the 106 PA or on state-only Caltrans projects either must: 1) meet the Secretary of the Interior's Professional Qualifications Standards, incorporated into the PQS qualifications outlined in [106 PA Attachment 1](#), or 2) have the work overseen by a consultant who meets the PQS requirements in the relevant discipline(s). Documentation that the consultants or oversight consultants meet the PQS requirements shall be made available to Caltrans for inspection. Caltrans, however, does not certify consultants as PQS.

Chapter 2

Cultural Resources Procedures

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Chapter 2:

Cultural Resources Procedures

2.1 Introduction

As part of its environmental policy, Caltrans considers historic properties and historical resources during the project development process. The treatment of these resources is an important part of the planning, development, and maintenance of transportation facilities.

Chapter 1 of this handbook describes federal and state laws and regulations concerning the treatment of historic properties significant in American history, archaeology, culture, architecture, and engineering. This chapter describes how Caltrans complies with those laws and regulations.

Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations, [36 CFR 800](#), provide the regulatory mechanism for considering the effects to historic properties on projects with federal involvement (federal funding and/or approval action). Where there is no federal involvement, the California Environmental Quality Act ([CEQA](#)) and California Public Resources Code (PRC) Sections [5024](#) and [5024.5](#) are the primary regulations governing consideration of cultural resources, supported by [Executive Order W-26-92](#).

Under Section 106, the term “historic properties” means any cultural resources, including archaeological properties, which have been listed in or determined eligible for listing in the National Register of Historic Places (NRHP), the regulations of which are found at 36 CFR 60. State law identifies “historical resources” as properties that meet the criteria for listing in the National Register or the California Register of Historical Resources (CRHR), as well as properties that are designated as historic under local ordinances and properties that have been identified as significant in a local survey that meets the state Office of Historic Preservation (OHP) standards. Properties that are determined not eligible for the NRHP still might meet the state criteria and require consideration under state law. See [Chapter 4](#) for eligibility criteria.

For Caltrans purposes the term “cultural resources” means any tangible or observable evidence of past human activity, *regardless of significance*, found in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values, such as artifacts, archaeological sites, buildings, bridges and other structures. This broad definition is meant to ensure that all potential historic properties subject to consideration under Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations ([36 CFR 800](#)) and historical resources subject to consideration under the California Environmental Quality Act of 1970 will be recognized and given appropriate consideration.

Once a cultural resource is evaluated, if it is found to be significant, it then becomes a historic property under NHPA, or a historical resource under CEQA, depending on whether federal and/or state regulations apply (see sidebar).

The process for considering cultural resources on state-only projects generally parallels that which is followed on federally funded and/or approved projects. Caltrans policy is to treat resources in the same manner regardless of the funding source. The treatment of historical resources on state-only projects follows the federal standard although regulatory procedures differ (see sections 2.6 through 2.10).

This chapter focuses on the standard procedures Caltrans uses in the identification, evaluation, and treatment of historic properties and on the documents used in compliance procedures. Unusual situations may require case-by-case handling; consult the appropriate specialist in headquarters’ Cultural Studies Office (CSO) of the Division of Environmental Analysis (DEA) in such circumstances.

Historic property	<ul style="list-style-type: none"> • Federal term • District, site, building, structure, or object • Significant in American history, architecture, engineering, archaeology, or culture • National, state, or local level of significance • Meets National Register criteria • Includes properties that have been listed in or determined eligible for listing in the National Register of Historic Places
Historical resource	<ul style="list-style-type: none"> • State term specific to CEQA • Object, building, structure, site, area, place, record, or manuscript • Historically or archaeologically significant, or significant in other specific aspects of California life • National Register & California Register listed and eligible properties • Includes resources that have been listed in or determined eligible for listing in the California Register of Historical Resources by the State Historical Resources Commission • Resources designated as historic under local landmark ordinances • Resources identified as significant in local survey meeting Office of Historic Preservation Standards

2.1.1 Professionally Qualified Staff

It is Caltrans policy that all persons carrying out these procedures, whether Caltrans staff or consultants, must meet the appropriate federal and state professional qualifications standards, as established by the Secretary of the Interior, the State Personnel Board, and Caltrans (see [Chapter 1 Section 1.3.4](#) of this volume). Furthermore, any studies submitted under the Section 106 Programmatic Agreement¹ ([106 PA](#)), the PRC 5024 Memorandum of Understanding² ([5024 MOU](#)), both discussed below, or the California Environmental Quality Act (CEQA) must be prepared by or under the supervision of appropriate Professionally Qualified Staff (PQS) as described in [106 PA Attachment 1](#)³. Caltrans PQS are responsible for ensuring that all approvals, determinations, and findings for all Section 106 documents meet the requirements of the 106 PA. The CSO Chief is responsible for certifying Caltrans staff, and will also review consultants' qualifications on request. Questions on certification should be addressed to the Chief, Section 106 Programmatic Agreement and Coordination Branch (Section 106 Branch Chief) in CSO.

PQS are certified to work under the 106 PA in the course of their duties related to federal undertakings under Section 106 of the National Historic Preservation Act and under the 5024 MOU for their duties related to projects and activities that affect state-owned cultural resources. This certification applies only to responsibilities and activities conducted under the direction of Caltrans district or headquarters Environmental offices. It does not apply to any other work that may be conducted on behalf of any other office, agency, entity, or individual. This certification applies to Caltrans employees only, and it terminates upon leaving Caltrans employment.

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.

² 2015 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.

³ The professional standards in Attachment 1 for the 106 PA and 5024 MOU are identical. Therefore, whenever 106 PA Attachment 1 is mentioned, it also refers to 5024 MOU Attachment 1 for projects and activities that involve state-owned cultural resources.

2.2 Projects with Federal Involvement

2.2.1 Introduction

NEPA Assignment and Section 106

The Federal Highway Administration (FHWA) assigned to Caltrans all responsibilities for compliance under the National Environmental Policy Act (NEPA). This includes FHWA's Section 106 responsibilities. Under NEPA assignment, the CSO has assumed FHWA's Section 106 responsibilities.

Using the process outlined in this volume of the Caltrans *Standard Environmental Reference*, the appropriate Caltrans district environmental staff will continue to process Section 106 compliance documentation for Caltrans projects and for FHWA-funded local agency projects. Consultants will continue to submit their Section 106 documents to the appropriate district Heritage Resources Coordinator (HRC) for processing.

For more information on the NEPA assignment, please refer to [Chapter 38](#) of the SER. Questions regarding CSO's FHWA Section 106 responsibilities should be directed to the appropriate district HRC.

The regulations implementing Section 106 are published at [36 CFR 800](#). Those regulations allow the Advisory Council on Historic Preservation (Council) and the federal agency to negotiate a programmatic agreement ([106 PA](#)) to govern implementation of a particular program. FHWA has negotiated such an agreement with Council, the State Historic Preservation Officer (SHPO), and Caltrans to implement the Federal-Aid Highway Program in California. Under the provisions of the 106 PA, FHWA authorized Caltrans to perform many of the Section 106 steps, yet retained direct involvement for those aspects of Section 106 that are more complex, relate to other FHWA legislative responsibilities such as 4(f), and that involve financial decisions. The 106 PA specifically requires all Section 106 compliance work to be performed by or under the supervision of Caltrans PQS. A copy of the 106 PA is attached as [Exhibit 1.1](#). [Exhibit 2.1](#) contains a 106 PA flowchart that may be useful for working with the 106 PA. [Exhibit 2.2](#) contains a concordance between the 106 PA and the regulations at 36 CFR 800.

Where the undertaking occurs on or affects tribal lands, the 106 PA does not apply and FHWA shall follow the procedures at 36 CFR 800. On tribal lands where the

tribe has assumed the Section 106 responsibilities of the SHPO, FHWA consults with the Tribal Historic Preservation Officer (THPO). In the absence of a THPO, FHWA consults with the tribal representative and SHPO. [Chapter 3](#) provides details on THPO involvement and consultation with Indian tribes.

Local Bridge Seismic Retrofit Program

For projects involving seismic retrofits to local bridges under the Local Bridge Seismic Retrofit Program (LBSRP), the 106 PA [Stipulation XVII](#) and [Attachment 7](#) superseded the 1995 Seismic Retrofit Programmatic Agreement, which has been terminated. However, Attachment 7 contains that agreement's essential expedited features for Section 106 compliance for the LBSRP. Note that a project must involve work *only* on local bridges identified in the LBSRP for it to fall under the 106 PA Stipulation and Attachment.

2.2.2 Overview of Section 106 under the 106 PA

Under the 106 PA, the Section 106 process, briefly, is as follows:

The Project Development Team (PDT), defined in the Project Development Procedures Manual, identifies any federal involvement on a project and determines the existence of an undertaking subject to Section 106.

Undertaking, as defined by the 1992 amendments to NHPA, means any project, program, or activity with federal funding or under the direct or indirect jurisdiction of a federal agency, *including federal license, permit, or approval, or administered pursuant to federal agency delegation or approval*. Not all undertakings are subject to Section 106. Those undertakings that may result in changes in the character or use of historic properties, regardless of whether any such properties are located in the project's Area of Potential Effects (APE), are subject to Section 106. Most Caltrans projects do have federal involvement and are thus subject to Section 106. The federal *action* defines the undertaking, not the anticipated presence or absence of historic properties.

Next, Caltrans PQS or qualified consultants determine and document the project's APE, the area within which the undertaking could cause changes in the character or use of historic properties, if any were present.

Qualified professional staff or consultants begin cultural resources studies to identify and evaluate cultural resources within the APE. They look for the findings of any previous studies, and then conduct research, consultation, and surveys as needed to identify any resources that require consideration. Caltrans applies the NRHP criteria to any properties requiring evaluation and requests SHPO's concurrence that properties are eligible or not eligible for inclusion in the NRHP, with concurrent submittal to FHWA.

If no historic properties are identified within the APE, either because:

- There are no properties present that require evaluation, or
- The properties have been evaluated and determined not eligible and SHPO concurred,

Caltrans makes a finding that no historic properties will be affected and concurrently notifies SHPO (See [Section 2.5.2](#)).

When historic properties are present and there is a potential for effect, Caltrans, in consultation with SHPO and consulting parties, applies the Criteria of Adverse Effect to determine whether the proposed undertaking could affect those properties. If an effect is found, Caltrans, in consultation with SHPO, determines whether the effect should be considered adverse.

The Army Corps of Engineers Sacramento, San Francisco and Los Angeles Districts are invited signatories under and agreed to the Section 106 PA for its Section 106 compliance for the Federal-Aid Highway Program in California.

Other federal agencies may have involvement that would constitute an undertaking with or without FHWA participation. For example, a federal agency's permit requirement, such as a Forest Service or Bureau of Land Management use permit would also trigger Section 106. At the other agency's discretion, it may fulfill its Section 106 responsibilities by using applicable provisions of the Section 106 PA.

Undertakings, unless screened and determined to be exempt from further review (see [Section 2.3.2](#)) will result in a finding of "No Historic Properties Affected, No Adverse Effect, No Adverse Effect with Standard Conditions (all of which would conclude Section 106), or a finding of Adverse Effect. To conclude Section 106 compliance on undertakings having an Adverse Effect, the headquarters Division of Environmental Analysis (DEA), and SHPO will usually enter into a Memorandum of Agreement (MOA) that specifies how the adverse effect will be taken into account. Caltrans district is routinely a concurring party to the MOA. Other parties may also be involved at Caltrans's discretion.

2.2.3 Identifying Federal Involvement

The PDT determines if there will be federal involvement on a project, which will typically make it an undertaking subject to Section 106. In some cases, the decision will have been made earlier as part of developing the State Transportation Improvement Plan (STIP). The PDT makes a final decision on federal involvement as early as possible in the project development process.

An action by a federal agency, such as FHWA or the Federal Transit Administration (FTA), triggers Section 106 on Caltrans projects. Most commonly, the action would be FHWA funding. On occasion, more than one agency will be involved, and a lead agency will then be identified. When FHWA funding or approval authority is involved, other federal agencies may assume the lead on Section 106 only if FHWA has agreed to an alternate process in advance.

On projects involving a permit from the U.S. Coast Guard and a historic bridge, early coordination is essential. Such projects may require preparation of an Environmental Impact Statement (EIS), regardless of other environmental documentation needs, based on a 1985 agreement between FHWA and the U.S. Coast Guard.

Federal involvement will be found in the following cases:

- Projects modifying access to an interstate highway.
- Any project where federal aid will be used for engineering, construction, or right of way.
- Any project for which federal approvals, permits, or licenses may be required.
- Any project that relinquishes or disposes of property on right of way financed with federal funds (district right-of-way staff should ascertain whether there is a federal interest).

FHWA or other federal agencies may also be involved in a project implemented in response to an officially declared disaster.

2.2.4 Additional Guidance for Working with Section 106

Federal agencies bear the responsibility for compliance with Section 106 for their undertakings, although they may authorize others to perform a portion of the actual work. Caltrans identifies, evaluates, and treats historic properties and prepares most required documents. Caltrans, in turn, may contract some work to private consultants.

Under the NEPA assignment, Caltrans retains ultimate responsibility for Section 106 compliance on its undertakings, regardless of who prepares the documentation.

The CSO in headquarters has specialists in Section 106 processes, Native American coordination, archaeology, architectural history, history, and mitigation measures. They are available to answer questions and to help districts complete the requirements of the 106 PA. Districts are to rely upon these specialists as a first-line resource in answering project-specific questions and in developing compliance strategies for unusual or complex Section 106 compliance situations. If necessary, CSO specialists may consult with SHPO, especially for difficult or possibly precedent-setting situations.

Federal publications provide valuable assistance in working with the Section 106 process. Many are available on-line through the [Advisory Council on Historic Preservation](#) and the National Park Service [History & Culture](#), and include:

- [National Register Evaluation Criteria](#)
- [Archeology and Historic Preservation](#): *Secretary of the Interior's Standards and Guidelines* (National Park Service, September 29, 1983)
- [Section 106 Regulations Text](#) and [Section 106 Summary](#)
- [Section 106 Flow Chart](#) and [Section 106 Explanatory Material](#)
- [Section-by-Section Questions and Answers](#)
- *Protecting Historic Properties: A [Citizen's Guide](#) to Section 106 Review*
- [Indian Sacred Sites and Section 106](#) (relationship Between E.O. 13007 and Section 106)
- Consultation on [Recovery of Significant Information](#) from Archeological Sites
- [Section 106 Consultation Involving National Historic Landmarks](#)
- [Consulting with Indian Tribes in the Section 106 Review Process](#)
- Federal [Alternate Procedures](#) for Section 106

FHWA guidance on historic preservation issues includes:

- [Section 4\(f\) Policy Paper](#) (revised March 1, 2005)
- Guidance for [Preparing and Processing Environmental and Section 4\(f\) Documents](#) (also known as Technical Advisory 6640.8A)
- Section 4(f) – [23 CFR 774](#) as amended

2.2.5 Managing the Section 106 Process

The Project Development Team formally initiates environmental studies, including cultural resources studies, by submitting plans showing proposed project alternatives with best estimates of Right of Way requirements. The term “cultural resources studies” (formerly called historical studies) describes all research, consultation, and survey work for the full range of cultural resources.

Preliminary environmental and cultural resources studies should be started early, at the Project Initiation Document (PID) stage. Early studies involve such activities as walkovers and reconnaissance surveys, supplemented by basic information on previously recorded cultural resources and archaeological sensitivity of the project area. Obtaining this information early in the process allows environmental consequences to be included in the factors governing identification of feasible alternatives. Early surveys can reduce project development time spent on alternatives that obviously would have unacceptable environmental consequences. In particular, early identification of consulting parties is crucial to meeting project schedules.

If information available at the PID stage indicates that historic properties could be involved, every effort should be made to develop realistic project schedules. Scheduling decisions should acknowledge the time required to complete the Section 106 process.

The time required for achieving Section 106 compliance varies considerably. It takes little time for projects that do not require cultural resources studies or which have no potential to affect historic properties. It can take three years or more, however, to complete the process for projects requiring extensive work. Longer time frames may also be needed if contracting for studies is involved.

Compliance time can be reduced by conducting early studies to help avoid alternatives that would affect excessive numbers of properties, by scheduling cultural resources studies as early as possible in the environmental process, by communicating closely with the PDT, and by careful delineation of APEs (neither too large nor too small) for the purpose of conducting environmental and cultural resources studies that are both efficient and in compliance with applicable laws. [Exhibit 2.3](#) provides estimates of the range of time required for certain cultural resources studies while [Exhibit 2.4](#) suggests their sequential order.

Coordination between the District Environmental Branch Chief (DEBC) and the appropriate cultural resources staff in the district environmental branch, the Caltrans Project Manager, and FHWA Transportation Engineer or other federal representative is crucial throughout the process.

2.2.6 Strategy Consultation

Informal initial strategy consultation can be useful in unusual, controversial, or complex compliance situations. These discussions or meetings may be between district and CSO cultural resources specialists and managers or between district staff and FHWA and should be held before submitting formal documentation. If issues arise which cannot be resolved, the PDT can request the CSO Section 106 Branch Chief to initiate a strategy meeting with SHPO staff. On rare occasions, the Council can participate, usually by phone.

Strategy consultation may be crucial under the following circumstances:

- When a project may involve particular areas of concern to Native Americans where internal negotiations have not resolved the disagreement.
- When there is disagreement among agencies over significance, effect, or treatment of historic properties.
- When a project involves substantial local controversy.

It is recommended that the Caltrans district discuss strategy with other governmental entities, particularly tribal governments or land-managing agencies that have an interest in historic properties that Caltrans projects may affect.

Caltrans districts should make every effort to solve issues internally or in consultation with CSO without contacting SHPO, as SHPO staffing levels do not allow for frequent individual discussion of historic property issues. To reduce the volume of routine calls to SHPO, district staff is to contact the CSO Section 106 Branch Chief for advice on policy, procedures, eligibility, and effect issues or project status.

The Section 106 Branch Chief will initiate SHPO consultation when such consultation is warranted. In general, contacts should be limited to situations with complex or unusual issues, projects with high public interest, and circumstances in which appropriate application of the regulations is uncertain. District staff may contact SHPO directly in critical situations, such as a late discovery or an emergency when immediate response is essential. CSO should be notified in advance of any action for which

they are responsible under Section 106. Likewise, FHWA should be notified in advance of any non-delegated action for which it has Section 106 responsibilities.

2.2.7 Interstate Highway Federal Exemption

Pursuant to federal law, under 23 USC 103(c)(5)(A)-(C), the Interstate Highway System is exempt from Section 106, except for individual elements that have been determined by the Secretary of Transportation to have national or exceptional historic significance and are considered historic properties for Section 106 and Section 4(f) purposes.

The exemption releases all federal agencies from the Section 106 requirements of having to take into account the effects of their undertakings on the Interstate System, except for a limited number of individual elements associated with the system.

FHWA Headquarters, for the Secretary of Transportation, designated individual elements that still are subject to Section 106 review. Designations were made in consultation with state DOTs, FHWA Divisions, SHPOs, the Council, and the public. In California, there are six individual features of the “Federal Interstate Highway System” that FHWA designated as nationally and exceptionally significant.

The following resources are *not* exempt from Section 106 compliance:

<u>Interstate</u>	<u>Resource Name</u>	<u>Property type</u>	<u>Postmile(s)</u>
I-80	San Francisco-Oakland Bay Bridge	Bridge	SF PM 4.8/8.9, ALA PM 0.0/1.2
I-80	Truckee River Canyon	Highway Segment	NEV PM 0/10
I-105	Glenn Anderson (Century) Freeway	Highway Segment	LA PM 5/18
I-5	Chicano Park	Park	SD PM 14/14.1
I-8	Pine Valley Creek Bridge	Bridge	SD PM 41.7
I-5	Pit River Bridge	Bridge	SHA PM 28.1

Details on why these elements are nationally and exceptionally significant, their construction dates, and the NRHP criteria under which they are eligible have been posted on the FHWA [Historic Preservation Final List of Nationally and Exceptionally Significant Features of the Federal Interstate Highway System](#) website.

Federal agencies must take into account effects of undertakings on other historic properties that are *not* components of the Interstate System, such as adjacent historic sites or archaeological sites within the right of way.

Contact the CSO Section 106 Branch Chief for any questions concerning the applicability of the Interstate Highway Exemption.

This exemption is for federal undertakings only and does *not* exempt Caltrans from compliance with [CEQA](#), [PRC 5024](#) or other state laws and regulations. For instance, a bridge on the Interstate that is exempted from review for Section 106 undertakings still would have to be evaluated for PRC 5024 or CEQA compliance and, for the purposes of those state laws and regulations, might be found eligible for inclusion in the NRHP or as a historic resource under CEQA.

2.3 Section 106 Procedures under the 106 PA

2.3.1 Introduction

The Section 106 procedures explained below follow the order laid out in 36 CFR 800, with changes prescribed by the 106 PA. The steps essentially are linear, although in practice they may overlap or be compressed. It is essential to be aware of where the project is in the process.

The Section 106 process may conclude at various places in the process, when resolution is reached at any one of the following steps:

- 1) Caltrans district PQS determine that the activity is not an undertaking subject to Section 106.
- 2) Caltrans district PQS determine the undertaking meets the criteria for Screened Undertakings in accordance with 106 PA [Stipulation VII](#) and [Attachment 2](#).
- 3) Caltrans district PQS find that the project will result in No Historic Properties Affected, and notifies CSO and SHPO, when
 - o No properties of any kind are present,
 - o *None* of the properties are eligible for the NRHP and SHPO has concurred, or
 - o Historic properties are present but the undertaking will have no effect on them.
- 4) Caltrans district PQS find that the project will have No Adverse Effect on historic properties when “standard conditions” are met.
- 5) Caltrans, CSO and SHPO agree that the project will have No Adverse Effect on historic properties.

- 6) On projects with an Adverse effect, Caltrans district, CSO, and SHPO, and including Council in special circumstances, sign a Memorandum of Agreement on how to take effects into account.

On the rare occasions when no agreement is reached, CSO takes Council's written comments into account, decides whether and how to proceed with its proposed activity, and notifies Council of its decision.

2.3.2 Screened Undertakings

Certain undertakings by their very nature have little potential to affect historic properties. FHWA, SHPO, and Caltrans recognize this and account for it in the 106 PA under [Stipulation VII](#) and [Attachment 2](#), in an effort to streamline cultural resource compliance. The attachment lists 30 classes of undertaking that must be screened before being exempted from Section 106 review. As with all other actions under the 106 PA, a Caltrans PQS must conduct the screening process. Only the specific actions on the list qualify for screening, but an undertaking comprised of several actions on the list can be screened.

If conditions must be imposed on the undertaking to ensure that potential historic properties would not be affected (e.g., fencing to protect an archaeological site, or pavement resurfacing on the deck of a historic bridge to be completed per the *Secretary of the Interior's Standards for Treatment of Historic Properties*) the undertaking will not qualify as exempt from further review.

Screening may involve reviewing relevant documents, such as maps, photographs, previous cultural studies, and project plans. It may involve a field review of the project location or consultation with knowledgeable individuals. Personal knowledge of the project location may be important and should be included where relevant. Based on the outcome of the screening process, the Caltrans PQS may determine that individual undertakings are exempt from further review because there is no potential to affect historic properties. A "Screened Undertaking" memo to the senior planner or office chief responsible for environmental documentation constitutes the documentation necessary to complete the Section 106 process for screened undertakings determined exempt from further review. The Caltrans PQS who screened the undertaking prepares a memo that includes a description of the undertaking, the screening process, and the results of screening that led to the conclusion that the undertaking qualified as exempt from further review, and keeps a copy in the district's environmental files. [Exhibit 2.5](#) contains guidance for preparing a Screened Undertaking

memo for the project planner. See [106 PA Attachment 2](#) and [Chapter 4 Section 4.2.1](#) for further guidance.

2.3.3 Scope of Identification Efforts

The Section 106 process begins when the PDT identifies that an undertaking is subject to Section 106 compliance. See [Section 2.2.2](#) for the definition of an undertaking. Once it has been determined that an undertaking exists, Caltrans initiates the steps to identify any historic properties that might be affected by the project.

2.3.3.1 Establishing the Area of Potential Effects

The first step in determining the scope of identification efforts and a critical step in conducting cultural resources studies is to establish the project's APE.

As defined in [36 CFR 800.16\(d\)](#), an APE is “the geographical area or areas within which an undertaking may *directly or indirectly* cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” Setting an APE is a *prospective* activity and the known or suspected presence or absence of actual historic properties is irrelevant at this stage.

The APE should define the boundaries of the area within which a proposed project might affect properties. It should be just large enough to include in their entirety all properties being studied (with special consideration for long linear features) that under any reasonable circumstance could be affected by the proposed undertaking. 106 PA [Attachment 3](#) provides specific details on aspects to consider when delineating the APE and setting direct and indirect APEs.

The minimum APE for considering *direct effects* generally is the required right of way, plus areas subject to ground-disturbing activities, such as utility relocation, equipment staging areas, and designated storage, disposal, or borrow sites. If an archaeological site is identified, the APE is drawn to encompass the known or presumed boundaries of archaeological properties. If the proposed project has potential for indirect effects to archaeological sites, the APE may need to be expanded, and consultation with SHPO early in the scoping process should be considered. Consult the CSO Section 106 Branch Chief if a question arises.

It is permissible to distinguish direct APE and indirect APE on project maps, but users should note that they are Caltrans terms that have no regulatory basis. The

project's vertical and horizontal extent should always be considered in establishing both the direct and indirect APE.

Buildings and structures can be affected by land use changes and by visual, noise or atmospheric intrusions beyond the right of way. To consider these *indirect effects*, the APE for the built environment in an urban or suburban environment often includes one row of buildings beyond the proposed right of way, if warranted. The assessor's parcel may be used to define the boundaries of a property for inclusion within the APE. When warranted by the nature of the project or other factors such as topography or property size, the APE can be substantially larger or smaller. Judgment must be exercised where assessor's parcels are very large, as is often the case with rural properties. See [Chapter 4 Section 4.3](#) for additional guidance on setting the APE.

APE maps must be of a scale suitable to depict the boundaries of major project features (e.g., right of way, edge of pavement) relative to property boundaries.

The 106 PA makes Caltrans PQS and Project Managers jointly responsible for setting the APE. [Exhibit 1.6](#) outlines the Caltrans PQS levels that are allowed to set the APE and sign the map. They will sign any maps or plans that define or redefine an APE. For Local Assistance projects, the District Local Assistance Engineer (DLAE) will sign as the project manager. When the guidance in 106 PA [Attachment 3](#) is followed, specific consultation with SHPO typically will not be necessary. If consultation on the APE is deemed necessary, it should be initiated through the CSO Section 106 Branch Chief. While the 106 PA authorizes Caltrans to define the APE, SHPO and CSO may always comment on the adequacy of that delineation.

Cultural resources specialists conduct studies within the APE to identify the presence or absence of historic properties. When studies must begin prior to establishing the APE, district environmental branch PQS, in consultation with the PDT, may designate a reasonable "Study Area" for use in conducting cultural resources studies until an APE can be delineated. The Study Area should encompass all land that might possibly be included in the final APE. Project reports then would include both the final APE and the Study Area Map as appropriate.

If studies reveal a resource such as a large potential historic district or long linear feature that extends beyond the designated APE boundaries, the entire resource must be considered as a whole, even if, eventually, the APE may or may not be formally re-

vised to encompass the entire resource. See 106 PA [Attachment 3](#) for further guidance on the relationship of APE boundaries to larger historic properties.

The final APE map must be formally designated by the time the Historic Property Survey Report (HPSR) is complete because the final APE map appears as an exhibit in the HPSR, documenting this step in the Section 106 compliance process.

2.3.3.2 Seeking Information on Historic Properties

The next steps in determining the scope of identification efforts include seeking information from consulting parties and others who might have knowledge of resources in the project area (preliminary research), and gathering information from Indian tribes regarding resources that might have cultural or religious significance to the tribe and thus might be eligible for the NRHP. Section 106 regulations require federal agencies to employ a “reasonable and good faith effort” to identify historic properties. In deciding what constitutes a reasonable and good faith effort, Caltrans PQS should consider the following factors for any particular undertaking:

- Past planning, research, and studies.
- Magnitude and nature of the undertaking.
- Degree of federal involvement.
- Nature and extent of potential effects on properties.
- Likely nature and location of properties within the APE.
- Applicable standards and guidelines.
- Confidentiality concerns.

Gathering Information on Historic Properties (Preliminary Research)

Caltrans PQS and qualified consultants first look for previously evaluated properties within the APE. [Chapter 4 Section 4.4](#) discusses preliminary research in more detail. At a minimum, however, sources that are to be consulted on all projects include:

- National Register of Historic Places.
- California Register of Historical Resources.
- California Historical Landmarks.
- Points of Historical Interest.
- State and local inventories of historical resources.
- Caltrans Cultural Resources Database (CCRD)
- Caltrans Historic Highway Bridge Inventory, if applicable.

- The appropriate regional Information Center of the California Historical Resources Information System (CHRIS).
- Sacred Lands Inventory File, Native American Heritage Commission.

The regulations specifically call for FHWA to consult with Indian tribes about properties that may have religious or cultural significance to them. The 106 PA authorizes Caltrans to carry out this consultation on FHWA's behalf; however, FHWA will honor the request of any Indian tribe for direct government-to-government consultation. [Chapter 3](#) discusses this process and Caltrans role in government-to-government consultation. Additional contacts for information about possible resources in the project area may include local historical societies, museums, and members of the public.

Although [36 CFR 800.4](#) calls for agencies to request information from SHPO, the California SHPO does not have staff or facilities to provide research services. By reviewing appropriate databases, consulting historical resource listings, and requesting records searches from Information Centers and other sources, as described in [Chapter 4](#) and documenting the results accordingly, Caltrans is deemed to have complied with this requirement.

2.3.3.3 Properties Exempt from Evaluation

Caltrans, FHWA, and SHPO recognize that certain cultural resources categorically appear, under ordinary circumstances, to possess little or no potential for significance. Since the federal regulations require a "reasonable and good faith effort" to identify historic properties, Caltrans, SHPO, and FHWA have agreed to concentrate efforts on properties that *could* be significant. 106 PA [Attachment 4](#) contains a list of certain properties that are exempt from evaluation; however, it is important that Caltrans PQS determine which properties meet the requirements of Attachment 4. Further guidance is offered in [Chapter 4](#) on determining whether resources are exempt and documenting that determination.

2.3.4 Identification of Historic Properties

Once the scope of identification efforts has been defined, and based on information that already has been gathered about cultural resources within the APE, it should be clear whether survey work is needed.

If additional survey is needed, Caltrans PQS determines the level of survey effort that is needed, as well as the need to conduct phased identification.

Phased identification may be necessary when the project has a number of alternatives, involves large land areas, or includes areas to which access is restricted. The latter often occurs when archaeological sites may be affected. When considering a phased approach, CSO must approve it and an MOA usually is required. Also, the process needs to allow for other consulting parties and the public to adequately express their views. See [Chapter 4](#) for more discussion. Consultants are strongly encouraged to seek early district PQS involvement in situations where phased identification is being considered.

2.3.4.1 Historic Contexts

In order to identify resources not previously known, cultural resources specialists undertake research to develop the historic context necessary to recognize the types of resources that may be present and the locations in which they are likely to occur as well as possible areas of significance. The results of the study are presented in a historical overview of the technical reports that the cultural resources specialists prepare. The context statement presented in the historical overview leads directly to site-specific discussions of cultural resources in the APE.

Work on the historic context usually extends through the research and survey stage and is completed prior to formal evaluation of resources. The context should be developed to the extent needed to understand the resources being studied. It should be a focused and practical synthesis, providing the information needed to evaluate and compare properties within that context. [Chapter 4](#) contains more information on historic context.

2.3.4.2 Native American Consultation

Identification of historic properties must be made in consultation with Native Americans. The 106 PA authorizes Caltrans to conduct consultation with Indian tribes; however FHWA retains ultimate responsibility for direct government-to-government consultation. [Chapter 3](#) contains guidance on consultation procedures.

2.3.4.3 Field Surveys

At the Project Study Report (PSR) stage, a walkover or a reconnaissance survey, along with preliminary research, can provide information on the likelihood of historic properties within a given corridor for comparison among project alternatives. This preliminary work should be pursued to the extent necessary to reveal the need for specific cultural resources surveys within an APE or Project Area. See [Chapter 4](#) Section 4.5.

In practice, an archaeological survey is always conducted unless it can be shown that natural or modern processes have destroyed any potential resources, or unless the APE previously has been surveyed to appropriate standards. See [Chapter 4](#) and [Chapter 5](#) for more information on when and how to conduct an archaeological survey and on how to assess the potential for buried resources.

All unevaluated buildings or structures within the APE, *regardless of date of construction*, will be considered. [106 PA Attachment 4](#) allows Caltrans PQS to exempt certain specific resources from evaluation. [Chapter 4](#) and [Chapter 7](#) contain more information on when and how to conduct an appropriate surveys and how to apply Attachment 4. All cultural resources within the APE that merit recordation and, when applicable, evaluation, will be examined, recorded, and evaluated by appropriate Caltrans PQS or qualified consultants.

Survey Access and Field Safety

Surveyors need to carry copies of any rights of entry paperwork when in the field. When a property owner or tenant objects to survey activity, or if a situation appears to present any threat, surveyors must leave the property immediately.

Permits may be required for access to certain public lands. When it is necessary to enter private property, Caltrans must obtain permission from property owners. District Right of Way (ROW) staff should handle all access requirements, but ROW may delegate to cultural resources staff notifying residents when the actual field survey will take place. A single District cultural resources staff member should be designated to coordinate with ROW to get access permission for all advance studies.

Safety of employees and good relationships with the public are both prime considerations while conducting surveys or other fieldwork. All surveys and other fieldwork shall be conducted in keeping with the Code of Safe Field Practices. See [Chapter 4 Section 4.6.3](#), [Chapter 5 Section 5.3.6](#), and [Chapter 6 Section 6.8.2](#) for specific information regarding survey access and field safety. Consult the Caltrans [Safety Manual](#) for additional requirements and guidance.

2.3.5 Evaluation of Historic Properties

Next, Caltrans PQS and qualified consultants identify cultural resources within the APE that require evaluation. All buildings and structures within the APE and all ar-

archaeological sites that cannot be avoided must be identified, and as applicable, recorded and evaluated.

Caltrans PQS must examine buildings and structures regardless of age, ownership, or condition to determine whether they meet the criteria for exempt properties in [106 PA Attachment 4](#).

2.3.5.1 Research and Field Work

Archaeologists and historical archaeologists conduct archaeological research, consult with Indian tribes and other Native Americans regarding prehistoric sites, and if necessary, conduct excavations, to evaluate archaeological resources. Architectural historians consult with local historical societies and groups, and conduct historical research and fieldwork to evaluate built-environment resources (e.g., buildings, structures, districts, objects, and complexes).

When resources have the potential for multiple property types (such as a mining complex with buildings, structures, and archaeological sites), professional cultural resource specialists from more than one discipline work together as a team to ensure that all pertinent resource values are adequately considered.

Caltrans PQS and qualified consultants conducting evaluations apply NRHP eligibility criteria (36 CFR 60.4) to each resource. Under the 106 PA, Caltrans district PQS make eligibility findings. Technical reports should state that Caltrans has determined that properties are eligible, or not eligible, for inclusion in the NRHP.

2.3.6 Documenting Identification and Evaluation Results

Under the 106 PA, Caltrans districts must consult with SHPO and concurrently notify CSO on the results of its NRHP eligibility determinations. This is typically accomplished in the HPSR.

The HPSR may contain a number of other findings that document compliance with Section 106 requirements – findings that do not require separate or additional SHPO concurrence under the 106 PA:

- Establishment of the APE.
- Scope and summary of identification efforts: results of seeking and gathering information on historic properties, including consultation with Indian tribes, Native Americans, local governments and groups, and other interested parties.

- Summary evaluation of cultural resources that were previously listed or determined eligible for the NRHP, that were previously determined not eligible and whether these prior evaluations are still applicable, and that were determined eligible or ineligible for the NRHP as a result of the surveys attached to the HPSR, or that are considered eligible for purposes of the project only.
- No Historic Properties Affected: there are no historic properties (NRHP listed or eligible) in the APE (provided SHPO has concurred on eligibility).
- No Historic Properties Affected: there are historic properties in the APE but there will be no effects to them.

The SHPO or CSO may still comment on Caltrans identification efforts and APE delineation, but will rarely do so when all guidance has been properly followed. An Archaeological Survey Report (ASR) or a Historical Resources Evaluation Report (HRER), as applicable, is attached to the HPSR to support the above findings. If there are questions on appropriate level of effort or items not covered in the [SER Volume 2](#), consult the CSO Section 106 Branch Chief. Caltrans districts do not need to notify SHPO or CSO of a No Historic Properties Affected finding when the HPSR contains this finding and the HPSR is included in the district's files. [Exhibit 2.6](#) contains more information on HPSRs.

2.3.7 Transmitting National Register Eligibility Findings

The 106 PA allows Caltrans districts to submit all NRHP eligibility studies directly to SHPO with concurrent submittal to CSO. When a Caltrans district has been in consultation with an Indian tribe on the NRHP eligibility of a property, the Caltrans district may submit eligibility determinations to the Indian tribe for review prior to formal submittal to the SHPO and shall consider any comments received in the final determination. The Caltrans district shall notify the tribe of Caltrans' final eligibility determination concurrent with submittal to the SHPO and provide documentation to the tribe, unless the tribe has indicated it does not wish to receive such documentation.

Caltrans should send the documents to SHPO via certified U.S. mail, return receipt requested. Be aware, however, that there may be a lag of a few days between the time the mailroom receives the document and SHPO actually receives it and logs it in. SHPO review begins from the date SHPO staff logs it in.

Caltrans district also must notify and provide documentation to local governments in whose jurisdiction the project is located, unless the local government has indicated it does not wish to receive such documentation.

If Caltrans and SHPO agree on the determination of eligibility for a property, their joint finding constitutes a “consensus” determination of eligibility for purposes of Section 106 compliance.

If Caltrans and SHPO disagree on eligibility, the Caltrans district must promptly notify CSO. The Caltrans district, CSO, the SHPO, and any Indian tribe or other consulting party shall consult to resolve the disagreement in accordance with a mutually acceptable time frame. If the disagreement is resolved, the Caltrans district may proceed. In the rare cases that a disagreement is not resolved or if a mutually acceptable time frame to resolve the disagreement is not reached, CSO shall comply with [36 CFR 800.4\(c\)\(2\)](#). When consultation with the Secretary of the Interior is required, CSO will submit the documentation to the Keeper of the NRHP, requesting a “formal” determination of eligibility and will ensure that all concerns, including the views of the SHPO, any Indian tribe, or any other consulting party are included in the request. The Keeper’s determination is final.

SHPO 30-Day Review of Eligibility Finding

The Caltrans district transmits copies of its HPSR containing the “Determination of Eligibility” finding(s) and supporting documentation to SHPO for review and concurrently provides copies to CSO. According to the 106 PA, SHPO has 30 calendar days to respond from date of receipt at SHPO (date logged in). Date-of-receipt confirmation, which serves as the basis for determining the 30-day review period, may be provided through the SHPO database, a mail delivery receipt, or written or documented oral communication from the SHPO. SHPO’s response may be agreement with the findings in the HPSR, but also, it may be a request for additional information, in which case the 30-day time limit is no longer applicable to supplemental submittals ([Section 2.4.7](#) contains further information on the review process).

If the SHPO has not responded to the Caltrans District within 30 calendar days after receipt, the District may either extend the review period in consultation with the SHPO or proceed to the next step prescribed the 106 PA, based upon Caltrans’ determination of NRHP eligibility. Absent a mutually agreed upon extension, when the 30-day period has expired without SHPO comment, the Caltrans district shall notify the SHPO via email if the district is moving forward.

2.3.8 No Historic Properties Affected

Once all historic properties within the APE have been identified, the Caltrans district must determine whether the undertaking will have an effect on those properties [[36 CFR 800.4\(d\)](#)]. A finding of “No Historic Properties Affected” is appropriate when the undertaking will have no effect on historic properties, as defined in [36 CFR 800.16\(i\)](#).

The No Historic Properties Affected finding applies when either

- The APE does not contain any historic properties at all, or
- Historic properties are present but the undertaking will not alter the characteristics that may qualify them for the NRHP.

Factors to Consider

It is important to consider the following factors determining whether a finding of No Historic Properties Affected is appropriate for historic properties within the APE:

- An effect does not have to be negative to be an effect.
- To have an effect, the undertaking must have the *potential to alter the characteristics that qualify the property for inclusion in the NRHP*.
- The potential alteration does not have to be certain.
- Effects do not need to be direct and physical.
- Consideration should be given to changes that may occur in the reasonably foreseeable future.

2.3.8.1 No Notification Required

When Caltrans has *not* consulted with SHPO or any other consulting parties on eligibility, either because

- 1) There were no cultural resources requiring evaluation in the APE (i.e., no cultural resources present or all properties qualified as exempt under [106 PA Attachment 4](#)), or
- 2) All properties in the APE were previously determined not eligible for the NRHP (e.g., Category 5 bridges),

The Caltrans district PQS documents a “No Historic Properties” finding by including the HPSR containing this finding in the district files. Checking the appropriate box on the HPSR form or adding a statement to that effect in a narrative HPSR will ac-

complete the documentation. It is not necessary to notify SHPO; see [Section 2.5.2 HPSR to District File](#) for processing information. If this finding is appropriate, Section 106 compliance is concluded.

2.3.8.2 Notification Required - No Historic Properties Affected

When Caltrans has consulted with SHPO or any other consulting parties on a determination of eligibility for properties in a project's APE and finds that the project will result in

- 1) No Historic Properties Affected, either because all of the properties in the APE were determined by Caltrans to be not eligible for the NRHP or
- 2) There are historic properties in the APE but the project will not have an effect on them.

Caltrans must provide the SHPO and any other consulting parties with notification of that finding pursuant to 106 PA [Stipulation IX.A](#). Checking the appropriate box on the HPSR form or adding a statement to that effect in a narrative HPSR, and transmitting the HPSR as evidence of that finding will accomplish the notification; see [Section 2.5.2 "HPSR to SHPO"](#) for processing information.. If this finding is appropriate, Section 106 compliance is concluded.

When a Caltrans district finds there are historic properties that may be affected by the undertaking, the district shall apply the Criteria of Adverse Effect. If objections have been raised about the "No Historic Properties Affected" finding and they have not been resolved, the Caltrans district and CSO should apply the Criteria of Adverse Effect and work towards resolving the objection.

2.3.9 Effect Determinations

The 106 PA requires the Caltrans district to determine whether the undertaking will have an effect on historic properties. If there will be an effect, the Caltrans district will make one of the following:

- Finding of No Adverse Effect (FNAE) either
 - with standard conditions (FNAE-SC), or
 - without Standard Conditions (FNAE-No SC),
- Finding of Adverse Effect (FAE).

[Section 2.5.3](#) contains guidance on the process for documenting these findings and consulting with SHPO.

2.3.9.1 Assessment of Adverse Effect

To assess effects, Caltrans district PQS apply the Criteria of Adverse Effect [36 CFR 800.5(a)(1) and (2)] to determine whether the proposed activity will adversely affect properties listed in or determined eligible for listing in the NRHP.

The FNAE applies when there will be an effect, but the effect will not alter any of the characteristics that qualify the historic property for the NRHP in a manner that would diminish any of the property's seven aspects of integrity. The FNAE-SC is appropriate when certain specific conditions are imposed on the undertaking (see below).

Aspects of Integrity	
• Location	• Workmanship
• Design	• Feeling
• Setting	• Association
• Materials	

According to the criteria, an adverse effect occurs when the integrity of the historic property may be diminished by the undertaking through alteration of the characteristics that qualify the property for the NRHP. Such alteration can be caused directly as a result of the undertaking or as an indirect consequence.

Adverse effects include, but are not limited to:

- Physical destruction, damage, or alteration, including moving the property from its historic location.
- Isolation from or alteration of the setting.
- Introduction of intrusive elements.
- Neglect leading to deterioration or destruction.
- Transfer, sale, or lease from federal ownership.

2.3.9.2 Finding of No Adverse Effect

An FNAE is appropriate when:

- None of the undertaking's anticipated effects meet the Criteria of Adverse Effect.
- The Caltrans district and CSO, after consultation, modify the undertaking or agree to conditions that will avoid adverse effects.

Finding of No Adverse Effect with Standard Conditions

There are two standard conditions that will avoid adverse effects under the 106 PA:

- 1) Protection of archaeological sites or built environment historic properties by designation of an Environmentally Sensitive Area (ESA); or

- 2) When the undertaking consists of maintenance, repairs, rehabilitation or alterations to historic properties and the work can be completed according to *Secretary of the Interior's Standards for Treatment of Historic Properties (SOIS)*.

When either of the standard conditions is imposed on an undertaking, the formal finding to conclude Section 106 would be a "Finding of No Adverse Effect with Standard Conditions" (FNAE-SC). Under the 106 PA, upon receipt of the FNAE-SC, CSO has 15 days SC to object to the finding. Neither SHPO nor FHWA need to review this finding, but FHWA is notified and CSO will send receive quarterly summary notification of such findings to SHPO.

While primarily used for archaeological sites, the first standard condition also may be used to protect built environment historic properties. When employing an ESA to avoid adverse effects, there are two major factors to consider:

- 1) For an archaeological site, it is permissible to assume that an archaeological site is eligible for the NRHP without conducting full evaluation studies, meaning that no excavation is needed. Where this approach is used, Caltrans states that a property is considered eligible "for the purposes of the undertaking." This avoids any unintended implications that would result in a property being automatically listed in the CRHR.
- 2) The Caltrans district PQS ensures that an ESA Action Plan is prepared. [Section 2.4.3](#), [106 PA Attachment 5](#), [Chapter 5](#), and [Exhibit 2.7](#) contain additional details on implementing ESAs and what should be included in an ESA Action Plan. [Exhibit 2.8](#) contains information on preparing an FNAE-SC-ESA.

The second standard condition is used primarily for built environment historic properties such as buildings and structures. Where adverse effects are avoided through maintenance, repairs, rehabilitation or alterations:

- 1) A Principal Architectural Historian with the requisite experience must review the proposed work items for consistency with the SOIS.
- 2) Principal Architectural Historian with the requisite experience must review the plans and specifications.
- 3) The Caltrans district PQS ensures that an SOIS action plan is prepared. [106 PA Attachment 5](#), [Chapter 7](#), and [Exhibit 7.5](#) contain additional details on use of the

- SOIS and what should be included in an SOIS Action Plan. [Exhibit 2.8](#) contains information on preparing an FNAE-SC-SOIS.
- 4) The work must be monitored by a Caltrans PQS or a person who either meets the qualifications of Principal Architectural Historian outlined in the [106 PA Attachment 1](#), or meets the National Park Service Professional Qualifications Standards for Historic Architecture (36 CFR Part 61). See the guidance in [Chapter 1 Section 1.3.3](#) – Architectural History and History. The Built Environment Preservation Services (BEPS) Branch in headquarters is available for assistance and guidance when considering this approach.

The FNAE-SC and supporting documentation—whether for ESAs or SOISs—must be complete when the Caltrans district submits the proposed finding to CSO. The 15-day review period will not begin until CSO is in receipt of complete documentation. See [Exhibit 2.8](#) for more information.

No Adverse Effect without Standard Conditions

The Caltrans district may also propose an FNAE that does not employ either of the two above standard conditions. This is called a “Finding of Adverse Effect without Standard Conditions” (FNAE-No SC). As outlined in the 106 PA [Stipulation X.B.2](#), the Caltrans district submits the proposed FNAE-No SC and supporting documentation to CSO for review and concurrently provides documented notification of the finding to any consulting parties that have expressed views regarding potential effects to historic properties. The notification shall include a request that any comments be directed to CSO within 30 days of receipt of notification.

If CSO agrees with the proposed finding, CSO shall consult with the SHPO pursuant to 106 PA [Stipulation X.B.2.a](#). Caltrans has not assumed FHWA’s responsibilities for environmental review and compliance, CSO shall concurrently notify FHWA of the finding.

SHPO and consulting parties then have 30 calendar days from of receipt of the notification to object to the finding. If there is no objection within this time frame, the undertaking is not subject to further review under the 106 PA. However, SHPO’s review time may be extended beyond the 30-day time frame when SHPO and CSO or FHWA (when Caltrans has not assumed FHWA’s responsibilities for environmental review and compliance) agree to an extension. Date-of-receipt confirmation, which serves as the basis for determining the 30-day review period, may be provided

through the SHPO database, a mail delivery receipt, or written or documented oral communication from the SHPO. When the 30-day period has expired without SHPO comment, the Caltrans district shall notify the SHPO via email that the district is moving forward. Disagreements or objections to a finding of no adverse effect will be addressed in accordance with 106 PA [Stipulation X.D.](#)

2.3.9.3 Finding of Adverse Effect

An undertaking is considered to have an adverse effect when *any* aspect of an undertaking meets one or more of the Criteria of Adverse Effect. Caltrans also may make a finding of Adverse Effect after a consulting party has indicated its disagreement with a NAE finding, or when SHPO objects to a finding of No Adverse Effect that employs other than standard conditions.

An undertaking may have no effect on some properties, but an adverse effect on others. In this situation, the finding for the undertaking would be “Adverse Effect.” For the undertaking as a whole, there is one finding of effect.

Under the 106 PA, the Caltrans district proposes to CSO a finding of “Adverse Effect” (FAE) and then CSO consults with SHPO. This is usually accomplished through a Finding of Adverse Effect document. Once the Caltrans district, CSO, SHPO, and consulting parties reach an agreement on the FAE, they move to the next step, resolving adverse effects. The purpose of this step is to continue consulting to reach agreement on measures that will enable the undertaking to proceed. The goal is to find measures that avoid or reduce harm to historic properties. Note that an adverse effect finding may trigger FHWA Section 4(f) policy that requires a legal sufficiency review.

2.3.10 Resolution of Adverse Effects

When there is an adverse effect, CSO consults with SHPO on ways to avoid or reduce the adverse effect. The Caltrans district must invite Indian Tribes to be consulting parties under certain circumstances. Chapter 3 contains more guidance for involving Indian tribes in the resolution of adverse effects. Specifically, the regulations provide that the federal agency shall consult with Indian tribes “to develop and evaluate alternatives or modification to the undertaking that could avoid, minimize, or mitigate adverse effects on historic properties” [[36 CFR 800.6\(a\)](#)]. The Caltrans district also must invite local governments with jurisdiction over the area in which the effects of an undertaking may occur to be consulting parties [[36 CFR 800.2\(c\)\(3\)](#)].

The Caltrans district and CSO, in consultation with SHPO *may* invite other groups and individuals to join the consultation if they have a demonstrated interest in the undertaking, and have submitted a written request to Caltrans to join the consultation. Demonstrated interest may include legal or economic relation to the undertaking or affected historic properties or concern with the undertaking's effects.

In the rare situation that CSO and SHPO are unable to resolve the adverse effects, they must invite Council to participate in the process.

2.3.10.1 Consultation to Develop Agreement

The consulting parties must make a good-faith effort to find acceptable ways to avoid or reduce the effects on historic properties. The Caltrans district gathers needed documentation, informs the public about the undertaking through its public involvement procedures, and works with the consulting parties to find a solution. The parties may agree to accept adverse effects when no reasonable alternatives are available and when the undertaking is in the best public interest despite the adverse effects on historic properties.

2.3.10.2 Memorandum of Agreement

When CSO and SHPO have reached an agreement for avoiding, reducing, mitigating, or accepting adverse effects on historic properties, they sign a Memorandum of Agreement (MOA). The Caltrans district shall be a concurring party to the MOA whenever it is required to perform any action as part of the agreement. See [Exhibit 2.10](#) for additional guidance on MOAs.

The MOA serves three important functions in the Section 106 process:

- It completes the process for a project on which an adverse effect will occur.
- It specifies the measures that will be implemented to mitigate, avoid, or reduce adverse effects on historic properties.
- It establishes responsibility for implementing each of the measures.

In situations where the adverse effect is to an archaeological property that is significant exclusively under NRHP Criterion D, the Caltrans district may follow the Data Recovery Plan (DRP) proposal in [106 PA Attachment 6](#) in order to resolve adverse effects. DEA and the Caltrans district both must enter into an MOA with SHPO to ensure the provisions of the DRP will be carried out as specified.

For most Caltrans projects, the MOA will be a two-party agreement between DEA and SHPO, with Caltrans as a concurring party. Note that an Indian tribe, local government, or other interested individuals may be invited to be concurring parties to the MOA, if CSO so decides. Unless they are assigned specific duties under the MOA, their failure to sign the MOA does not invalidate it and does not stop the MOA from being implemented.

In rare circumstances the Council may be involved in the resolution of Adverse Effects and also would sign the MOA. This would happen when CSO, SHPO, and the Caltrans district are unable to reach agreement among them and the Council has been asked to participate. Whether or not the Council is involved, CSO must provide a copy of the MOA to the Council for inclusion in their files for documentation of the agency's implementation of Section 106.

2.3.11 Implementation of Agreement

If the Section 106 process has resulted in a signed MOA, the Caltrans district proceeds with its project according to the terms of the MOA. Caltrans and any other parties with responsibilities under the MOA usually carry out the mitigation measures after the final environmental document is approved but before or during construction (See [Exhibit 2.3](#) for additional information on Caltrans WBS codes and funding sources). Within 90 days after completing all the required mitigation measures under the terms of an MOA, the Caltrans district reports to those who signed the MOA, usually DEA and SHPO, on actions completed.

2.3.12 Council Failure to Agree and Termination

In the rare instances when the MOA signatories and/or consulting parties fail to agree on terms for an MOA, the consultation may be terminated. In the event of termination, CSO shall request the Council comments on the undertaking. As outlined in [36 CFR 800.7\(4\)](#), the Caltrans Director must take into account Council's comments.

The Caltrans Director's decision must be documented by:

- (i) Preparing a summary of the decision that contains the rationale for the decision and evidence of consideration of the Council's comments and providing it to the Council prior to approval of the undertaking;
- (ii) Providing a copy of the summary to all consulting parties; and
- (iii) Notifying the public and making the record available for public inspection.

[\[36 CFR 800.7\(4\)\]](#)

Upon documenting its decision, Caltrans makes the final decision about whether or how to proceed with its proposed activity, after which, CSO notifies Council.

The *Council does not have veto power over a project*. Council comments go to the Caltrans Director, however, and there can be a significant delay to final approval of projects.

2.4 Special Considerations

2.4.1 Considering Alternatives

Preliminary studies, such as walkovers and reconnaissance surveys, should be undertaken early in the planning and development process, at the Project Study Report (PSR) stage. In some situations, these preliminary studies will be sufficient to indicate that the environmental consequences of some alternatives warrant dropping them from further consideration without expending additional effort.

Complete cultural resources surveys, Native American consultation, and any other necessary identification studies are undertaken for each project alternative formally considered in the environmental document.

Each alternative should be studied to a roughly equal degree and in comparable detail.

Studies that are destructive by nature (e.g., archaeological test excavations) may be postponed until a preferred alternative has been selected, unless all proposed alternatives would affect a particular resource. Postponing test excavations pending selection of a preferred alternative avoids unnecessary damage to the resources, in accordance with Caltrans and FHWA policy.

When the draft environmental document is prepared, each alternative is presented in roughly *equal* detail, and the proposed treatment of each historic property that would be affected by each alternative is described in an appropriate level of detail. The SHPO's views on eligibility and effect should be included in the draft environmental document. A range of suitable mitigation options, rather than a precise commitment, may be presented if mitigation plans are not yet complete. Note that the above information is required to be included in the draft environmental document before Caltrans can process it (i.e., allow it to be circulated for public review).

2.4.2 Emergency Situations

Section 106 responsibilities are not waived in emergencies, but alternative procedures are outlined in [36 CFR 800.12](#) when the work proposed is an essential and immediate response to an officially declared disaster or state of emergency.

Emergency work must be implemented within 30 days following declaration of the emergency.

The Caltrans district may request an extension of the period of applicability from the SHPO prior to passage of the 30 days.

2.4.2.1 Declared Emergency

Under the 106 PA [Stipulation XVI.A](#), an emergency or a disaster must be officially declared by the President, California Governor, tribal government when on tribal lands, Caltrans Director or District Director in order to use these procedures. Emergency situations also occur when there is an imminent threat to public health or property; rescue and salvage operations to preserve life and property are exempt from review.

2.4.2.2 Emergency Procedures

First, the Caltrans district PQS determines whether the emergency undertaking has the potential to affect historic properties. If no historic properties are affected, the District PQS completes an HPSR to District File with a Finding of No Historic Properties Affected.

If historic properties are likely to be affected by the emergency undertaking:

- 1) The Caltrans district PQS requests expedited consultation with SHPO and concurrently notifies CSO, FHWA where responsibilities have not been assumed, and any Indian tribes that might attach religious or cultural significance to the affected property and afford them an opportunity to comment within *seven calendar days* of the notification. Caltrans district may furnish this information through correspondence, hard copy, electronic media, telephone, or meetings, at its discretion taking into account the capabilities of the consulting parties and must document this process for the administrative record.
- 2) The notification to shall include, to the extent such information is available:
 - a) Description of the nature and extent of the property or properties

- b) Assessment of NRHP eligibility of any properties,
 - c) Type and extent of any damage to the property(ies)
 - d) Proposed action, any prudent and feasible treatment measures that would take any effects into account
 - e) Request for comments
- 3) If the Caltrans District determines that circumstances do not permit seven days for comment, the Caltrans district PQS shall notify the parties and invite any comments within the time available.

Within six month following the notification, the Caltrans district PQS provides the SHPO, CSO, and any additional consulting parties, including the Corps if a Department of the Army Authorization (DA) permit is required, a narrative report documenting the actions taken in accordance with this decisions made in accordance with this expedited consultation process. The follow-up report may follow the applicable guidance for documenting FNAE-SCs and FNAEs without standard conditions (see [Exhibit 2.8](#)) and for FAEs (see [Exhibit 2.9](#)).

2.4.2.3 Work Implemented After 30 Days of Declared Emergency

Caltrans districts shall follow 106 PA Stipulations VII through XI for all emergency undertakings to be initiated more than 30 days following declaration of an emergency, unless SHPO approved an extension.

The Caltrans District Environmental Branch should immediately contact FHWA, or the federal agency involved, to determine appropriate procedures and initiate action. Some federal agencies may be able to make exceptions to their regular permitting process in a declared emergency. For example, permit requirements could be waived for repairs or replacement in kind, or a permit could be issued after the fact.

2.4.3 Environmentally Sensitive Areas

Environmentally Sensitive Areas (ESAs) are locations of identified cultural, biological, or other resources that are to be protected by avoidance during Caltrans activities. Where establishment of an ESA protects an archaeological property, Caltrans may consider such properties NRHP eligible for the purposes of the undertaking without conducting subsurface testing or surface collection. Caltrans PQS must establish the ESA according to provisions of [106 PA Attachment 5](#). In this situation Section 106 compliance would be concluded with an FNAE-SC-ESA (see [Sections 2.3.7](#) and [2.5.3](#)

for further guidance on ESAs and effect findings). If other values are attached, consultation with SHPO may be necessary to determine whether the ESA is sufficient to protect the property from adverse effects.

Careful use of ESAs is imperative:

- Failure to honor an ESA during construction *will* result in reopening the Section 106 process, causing project delays and jeopardizing continuing use of ESAs in general and/or loss of federal-aid funds.
- Effective protection of a designated ESA may require such an extensive commitment of staff time that site evaluation and treatment might be a more prudent course of action.

Generally, ESAs are designed for protection from casual, inadvertent damage, peripheral to the project. However, as designation of an ESA suggests a potential for project effects to the site, any site protected by an ESA must be included entirely within the APE.

[Exhibit 2.7](#) on ESA Action Plans contains guidelines and format instructions.

2.4.4 Post-Review Discoveries

Post-review discoveries most commonly occur when previously unidentified archaeological sites are uncovered during construction. However, other previously unknown resources could be discovered, or a project could be found to have unexpected effects on known historic properties.

If a post-review discovery occurs, work in the area of the resource must stop immediately. The Caltrans district must immediately notify SHPO, CSO, FHWA if applicable, and any Indian tribes as appropriate.

If a project has substantial potential for post-review discoveries, Caltrans is encouraged to develop a plan to deal with them ([36 CFR 800.13\[a\]](#) and 106 PA [Stipulation XV](#)). Planning for discoveries is undertaken as part of Section 106 consultation with SHPO (see [Chapter 5](#) for more details on planning for and managing discoveries). Usually a signed MOA implements a treatment or discovery plan. Then, when discoveries are made, the Caltrans district need only proceed according to that plan.

When there is no plan in place and an undertaking affects a previously unidentified property or affects a known historic property in an unanticipated manner, the Caltrans district shall promptly stop construction activity near the property and implement all

reasonable measures needed to avoid, minimize, or mitigate further harm to the property. If the discovery involves a newly identified property, the Caltrans district may assume it to be NRHP eligible for the purposes of Section 106. [Exhibit 5.12](#) contains additional guidance.

Once a discovery is made, the 106 PA provides for the following actions:

- Caltrans district notifies CSO and SHPO within 48 hours. Caltrans district may furnish this information through correspondence, hard copy, electronic media, telephone, or meetings, at its discretion taking into account the capabilities of the consulting parties and must document this process for the administrative record. Notification shall include, to the extent such information is available:
 - Description of the nature and extent of the property or properties
 - Assessment of NRHP eligibility of any properties, the type
 - Extent of any damage to the property,
 - Proposed action, any prudent and feasible treatment measures that would take any effects into account
 - Request for comments
 - Caltrans district may furnish this information through correspondence, hard copy, electronic media, telephone, or meetings, at its discretion taking into account the capabilities of the consulting parties and must document this process for the administrative record.
- Caltrans district notifies Indian tribes and/or Native American groups that may attach religious or cultural significance to the property within 48 hours.
- Notified parties have 72 hours to respond to the Caltrans district with comments.
- Caltrans district must consider their comments in determining an appropriate course of action.
- Caltrans district then may carry out the determined course of action, with ongoing consultation as appropriate.
- If a National Historic Landmark is affected, the Caltrans district includes the Secretary of the Interior and the Council in the notification process (See 106 PA [Stipulation XV](#)).

2.4.5 Protecting National Historic Landmarks

National Historic Landmarks (NHLs) are properties of the highest level of national significance. Under Section 110(f) of the National Historic Preservation Act, federal agencies must give special protection to NHLs that may be affected by federal under-

takings. Any NHLs within a project area must receive additional consideration, as described in [36 CFR 800.10](#).

When an undertaking may adversely affect a NHL, the Caltrans district must include the Council as a consulting party to an agreement and must report the outcome of the Section 106 process to the President, Congress, and Secretary of the Interior.

2.4.6 Public Participation

The goal of public participation in the Section 106 process is to ensure that interested persons are able to learn about and voice their views on the potential effects of a project. Interested persons are defined as organizations and individuals that are concerned with the effects of an undertaking on historic properties. The Caltrans district shall document evidence of coordination with all interested persons and the results of that coordination in its Section 106 documents.

During the identification and evaluation stage, Caltrans district PQS identify and invite interested members of the public to provide information on cultural resources. Caltrans district PQS must notify all consulting parties and members of the public who express an interest in the proposed project during pre-field research of the results of the identification phase, even when no historic properties are found within the APE. When historic properties are found that may be subject to project effects, persons who have expressed an interest may want to continue participation. Consultation must protect the confidentiality or sensitivity of cultural resources.

Public participation in the Section 106 process may be achieved by using Caltrans's procedures for compliance with the National Environmental Policy Act (NEPA) and Caltrans project development process. Participation may include public meetings, hearings, or newspaper notices, although the degree of effort and timing may vary. The Caltrans district must include public comments and opinions and responses to those comments in the documentation for the public participation process. Usually this involves attaching contact letters to the HPSR and summarizing any responses in the HPSR.

2.4.6.1 Consulting Parties

Caltrans shall involve the following parties to participate as consulting parties in the consultation to resolve Adverse Effects to historic properties ([36 CFR 800.2](#)):

- SHPO [36 CFR 800.2(c)(1)].

- Tribal Historic Preservation Officer (THPO) for tribes that have assumed SHPO responsibilities when affected historic properties are on tribal lands, or representative of a federally recognized Indian tribe when an undertaking will affect Indian lands or properties of historical or cultural value to the tribe on non-Indian lands [36 CFR 800.2(c)(2)].
- Indian tribes, when the undertaking involves historic properties of religious or cultural significance to the tribe.
- Head of a local government, when the undertaking may affect historic properties within the local government's jurisdiction (its area of authority or control) [36 CFR 800.2(c)(3)].
- Applicants for federal assistance (such as Caltrans), and applicants or holders of grants, permits, or licenses that are subject to Section 106 review [36 CFR 800.2(c)(4)].

Upon request and in consultation with SHPO, Caltrans may invite others to participate as consulting parties in the consultation to resolve adverse effects to historic properties. Individuals and organizations with a demonstrated interest in the undertaking, due to their legal or economic relation to the undertaking or the affected historic properties, or their concern with the undertaking's effects on historic properties are in this category [36 CFR 800.2(c)(5)]. This may include for example owners who hold title to real property within an undertaking's APE, private historic preservation organizations, or non-federally recognized Indian tribes. Caltrans must consider all written requests of individuals or organizations to participate as consulting parties.

If a proposed project may affect federal or state lands, the Caltrans district shall contact the appropriate land-holding agencies for information regarding historic properties on their land and shall formally invite the agencies to be parties to any subsequent actions.

2.4.6.2 U.S. Forest Service and National Park Service as Consulting Parties

The U.S. Forest Service and the National Park Service have requested to be consulting parties on all projects that affect historic properties on their lands. For such projects, the Caltrans district shall:

- Request information from the appropriate National Forest or National Park to assist in the identification of historic properties

- Notify both the Forest Supervisor and the Forest Service Regional Forester or the National Park Superintendent and the National Park Service Regional Director of No Historic Properties Affected findings
- Consult with the Regional Forester and Forest Supervisor or with the National Park Superintendent and National Park Service Regional Director on Adverse or No Adverse Effect determinations
- Routinely invite the Regional Forester or the National Park Service Regional Director to be a consulting party for any project in which adverse effects will occur on historic properties in that jurisdiction

2.4.7 SHPO Review Times

Section 106 regulations (36 CFR 800) specify review times for various stages in the process, but they should not be misinterpreted or underestimated. With the 106 PA, SHPO has agreed in principle to respond to Caltrans determinations of NRHP eligibility within 30 days. Below are some circumstances that can affect review times:

- The SHPO interprets the 30-day review period as beginning when a document is received in the office, date-stamped and logged. The review period ends when SHPO signs the response letter. Allow for additional mail and handling time.
- Review time lengthens if SHPO must request additional information or questions a finding. Clear, logical, well documented, and well-justified findings help reduce delays.

It is best to start the process early, prepare adequate documents, and schedule enough time to allow for any complications or delays. It is important to remember that individual projects may be subject to higher levels of scrutiny and associated delays.

2.4.8 Section 4(f) as it relates to Section 106

“Use” of Historic Property

Section 4(f) of the 1966 Department of Transportation Act prohibits use of land from any historic property on or eligible for the NRHP unless there is no feasible and prudent alternative to the use of land from the affected historic property *and* the project includes all possible planning to minimize harm. The implementing regulations for Section 4(f) appear in 23 CFR 774. FHWA has issued “[Guidance for Preparing and Processing Environmental and Section 4\(f\) Documents](#),” which can be downloaded but is a very large document. Prepared as part of the environmental document, a Section 4(f) evaluation may be required when there is a finding of “Adverse Effect”

under Section 106 or a “No Adverse Effect” when there is a full or partial take of the historic property or there are other indirect effects.

Caltrans determines whether Section 4(f) applies to specific projects. Section 106 mitigation measures normally will support the finding under Section 4(f) that all possible measures to minimize harm have been incorporated into the project.

Caltrans may determine that Section 4(f) does not apply to restoration, rehabilitation, or maintenance of historic transportation facilities when:

- Caltrans concludes the work will not adversely affect the historical qualities of the facility.
- SHPO and Council do not object to this finding.

Section 4(f) does not apply to archaeological sites that are determined important chiefly for their information value and have minimal value for preservation in place. This principle applies regardless of whether data recovery is undertaken. If an archaeological site is eligible for values beyond its information, Caltrans will consider whether 4(f) applies in a case-by-case basis. While disturbances to archaeological sites known or likely to have human burials would constitute an adverse effect under Section 106, such disturbance would not necessarily require a Section 4(f) evaluation. The key is whether the site merits preservation in place, not what specific values are present.

Where a project involves an archaeological site eligible for values beyond information, the Caltrans district should ask DEA as early as possible to determine whether a Section 4(f) situation exists. DEA then would decide if a Section 4(f) analysis is warranted.

The Section 4(f) evaluation usually is presented in the draft environmental document, but it may appear as a separate document. It must demonstrate why the alternatives to avoid a Section 4(f) property are not feasible and prudent, and describe the measures that will be taken to minimize harm to the Section 4(f) property.

Two nationwide programmatic Section 4(f) evaluations apply to historic properties and serve mainly to streamline the FHWA process. *These programmatic Section 4(f) evaluations do not change the substantive requirements of Section 4(f), that is, the evaluation of avoidance and all possible measures to minimize harm.* These can be downloaded from FHWA's Environment web site.

- Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of [Historic Bridges](#), which allows demolition of historic bridges if they are not National Historic Landmarks, there is no prudent and feasible way to save the bridge, and FHWA, SHPO and the Council have reached agreement on the project under Section 106.
- Nationwide Section 4(f) Evaluation and Approval for Federally-Aided Highway Projects with [Minor Involvements](#) with Historic Sites, which pertains to undertakings with only minor effects on historic properties, which result in No Historic Properties Affected or No Adverse Effect findings under Section 106, SHPO agrees in writing to the finding, and Council does not object to the finding of No Adverse Effect.

These programmatic Section 4(f) evaluations are contained in the Federal Register 48[163], August 22, 1983, pp. 38135-38140; and 52[160], August 19, 1987, pp. 31111-31119.

Constructive Use

Although its application is extremely rare, Section 4(f) also may apply when the effects are not direct impacts (or direct takes); such impacts are called a “constructive use.” Constructive use means there are proximity (or non-direct) impacts to a historic property that is so severe that the property's features or attributes are substantially impaired. Adverse effects that are proximity impacts (such as visual, audible, or atmospheric effects) may or may not be considered constructive use under Section 4(f). It would depend on the magnitude of the effect and whether the proximity impact causes substantial impairment to the qualities that make the property eligible for the NRHP.

FHWA's Washington, DC office determines whether proximity impacts constitute constructive use under Section 4(f). Such a determination requires approximately six months to process through FHWA. The DEBC consider “constructive use” findings very carefully and should allow for that extra time when scheduling preparation of the environmental document.

2.5 Section 106 Documents

2.5.1 Introduction

Three primary documents serve as compliance vehicles for the Section 106 process: the Historic Property Survey Report (HPSR), the Finding of No Adverse Effects, and the Finding of Adverse Effect (FAE). See Exhibits [2.6](#), [2.8](#) and [2.9](#), respectively. The HPSR is a summary document for reporting the scope of identification efforts and evaluation of cultural resources with the supporting technical reports containing the detailed analyses appended to it. For Caltrans projects the archaeological survey report (ASR) and occasionally the Extended Phase I Report, serve as the supporting technical reports for prehistoric archaeological resources. See [Chapter 5 Sections 5.4.5](#) and [5.5.5](#). The Historic Resources Evaluation Report (HRER) may be used as supporting documentation for historical archaeological resources and built environment resources. See [Chapter 6 Section 6.10](#) and [Chapter 7 Section 7.11](#). A finding of effect document is prepared subsequent to the HPSR and is used to present an analysis of effect determinations when a project may affect historic properties. See [Exhibit 2.11](#) for the number of report copies to distribute and [Exhibit 2.12](#) for sample transmittal letters to SHPO and CSO.

2.5.2 Historic Property Survey Report

Caltrans uses the HPSR as the primary document to fulfill several requirements of 36 CFR 800. In addition to being the summary cover document for its attachments, the HPSR contains Caltrans's legal findings under the 106 PA and [36 CFR 800.3](#) and [800.4](#). It documents Caltrans's efforts to identify historic properties; evaluate the NRHP eligibility of cultural resources, when there are resources that need to be evaluated; and document a finding of No Historic Properties Affected, if applicable.

In very rare instances, with prior CSO approval, it may be possible to streamline the Section 106 process for simple projects with no potential for disagreement or controversy by using the HPSR to document No Adverse or Adverse Effect findings. *In almost all cases*, however, such effect findings should be submitted in a separate finding of effect document, after the SHPO has concurred on the scope of identification efforts and adequacy of the evaluation efforts.

The HPSR serves a number of functions, in addition to being the cover document for the technical reports. The HPSR:

- Summarizes the identification efforts, which includes documenting the APE.

- Summarizes the NRHP eligibility conclusions for cultural resources described and evaluated in the attached reports and indicates that these supporting documents contain full technical details.
- Provides evidence of coordination with local Native American groups, local governments, historical societies, and other interested persons.
- Requests SHPO's comments and concurrence on the NRHP eligibility determinations contained in the HPSR.
- Analyzes and documents a finding of No Historic Properties Affected when there are no historic properties within the APE or there is no effect on historic properties.
- Analyzes and documents a finding of No Adverse Effect with Standard Conditions when an ESA is imposed on the undertaking, or historic properties are subject to alteration, maintenance, repairs or rehabilitation according to the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.
- Provides evidence that Caltrans has satisfied federal and state environmental laws regarding the identification of cultural resources.

Because the majority of Caltrans projects for which HPSRs are prepared do not affect historic properties, this document, with its attachments, typically is the only document for Section 106 compliance. Because the HPSR can address multiple issues in a single document, it can consolidate and reduce the number of documents needed for SHPO review, and can thus help reduce overall preparation, transmittal, and review time.

An HPSR can vary greatly in length and complexity because the studies necessary to identify cultural resources will also vary, depending on the project and the types of resources within the APE or Study Area. For example, cultural resources studies must be conducted when there are buildings or structures present that are not exempt from evaluation as outlined in 106 PA [Stipulation VIII.C.1](#) and [Attachment 4](#). An archaeological study will be undertaken when a project would disturb the ground, but may not be required when the ground within the proposed project area is completely disturbed by prior modern construction. See [Exhibit 2.3](#) for a rough estimate of the length of time needed to complete the variety of cultural resources studies that might be necessary.

The body of the report should be very brief when summarizing attached technical reports. However, when the HPSR also is used to convey a No Historic Properties

Affected finding, it must contain all information necessary to describe and support the finding.

The HPSR's content should be carefully constructed to ensure that it adequately serves necessary functions while limiting redundancies and simplifying the review process. For example, if voluminous sets of identical maps accompany each attached technical report, duplicates can be removed before submittal to SHPO. For large or complex projects or those with a large number of cultural resources, the narrative HPSR is used and tabs may be used to guide reviewers to the various sections or attachments. The HPSR form is used only for simple, straight-forward projects, but use of the form is optional.

[Exhibit 2.6](#) provides instructions for preparing HPSRs. Templates for both the narrative HPSR and the HPSR form are available in the templates section of the Caltrans SER volume 2-Cultural Resources website.

2.5.2.1 HPSR Types of Findings

There are three types of HPSR findings, depending upon the presence and type of cultural resources within the APE. The "HPSR to District File" is fairly straightforward and simple and is used only in very specific situations to report that there are no cultural resources in the APE; those situations are outlined below. The "HPSR to SHPO" is used to report the existence of cultural resources that required evaluation beyond identification, as described in the subsequent section. The "HPSR to CSO" is used to document No Adverse Effects with Standard Conditions findings when it is possible to avoid potential effects through the establishment of an ESA or by using the SOIS; see [Section 2.3.9.2](#).

Caltrans PQS or consultants prepare the HPSR and supporting technical reports. For "HPSR to File," the Caltrans district places the HPSR and supporting documentation in the district files. For "HPSR to SHPO," that is, properties are evaluated whether or not they are determined eligible, the Caltrans district concurrently transmits the "HPSR to SHPO" and supporting documentation to SHPO and provides a copy to CSO. Caltrans's memo transmitting the HPSR requests SHPO's comments on the determinations of eligibility findings for any evaluated cultural resources in the APE. For "HPSR to CSO," for FNAE-SCs, the Caltrans district transmits the HPSR and supporting documentation to CSO.

HPSR to District File

The list below contains findings that are appropriate for the “HPSR to District file” section of the HPSR and that certifies that no historic properties are located within the APE and/or that the undertaking will have no effect to historic properties within the APE.

Appropriate Uses of HPSR “Finding – HPSR to District File”

This Finding may be used when there are:

- *No cultural resources* at all within the APE
- Archaeological sites, buildings, structures, and other non-archaeological resources within the APE, but *only*:
 - Resources meeting the criteria for Properties Exempt from Evaluation in 106 PA Attachment 4.
 - Resources previously determined not eligible for the NRHP and that determination remains valid.
- Bridges in the APE that are listed as Category 5 in the Caltrans Historic Highway Bridge Inventory and subsequent updates
- Properties within the APE were previously determined eligible for the NRHP, those determinations remain valid, but the properties will not be affected by the undertaking.
- Caltrans has determined that archaeological sites within the APE are considered eligible for the NRHP for the purposes of this project only and will be protected from potential effects by using ESAs.
- Caltrans has determined that the properties within the APE are considered eligible for the NRHP for the purposes of this project only because evaluation was not possible and CSO has approved this finding.
- Caltrans has determined a Finding of No Historic Properties Affected because Caltrans determined that all of the resources in the APE are not eligible for the NRHP *and* prior SHPO consultation is documented.
- Caltrans has determined a Finding of No Historic Properties Affected is appropriate for this undertaking and there are historic properties within the APE but the undertaking will have no effect on them; explain why they would not be affected.
- Caltrans has determined a Finding of No Adverse Effect, Local Bridge Seismic Retrofit Program, Undertakings not requiring SHPO or ACHP review is appropriate for this undertaking because the work is confined to: abutment catcher blocks,

CIDH piling, fiber wrapping, base isolation, with no ground disturbance, pre-stressing bent caps, restrainer systems, steel bracing, steel jacketing**, or column replacement** (**Work conforms to the SOIS and has been approved by PQS staff meeting the standards in [106 PA Attachment 1](#) as a Principal Architectural Historian). If the project also includes ground disturbing activities, haul roads, utility locations, construction staging areas, or any activity other than what occurs on the bridge this finding will not be appropriate.

Processing the “HPSR to District File”

District PQS or consultants prepare the document. Under the 106 PA, for projects handled under an ND/FONSI, the Caltrans PQS’s review for approval signature and the DEBC’s approval signature completes the Section 106 process. As there are no properties for which SHPO concurrence is needed, the report does not get transmitted to SHPO. The environmental document summarizes the results of the findings and includes a statement that no historic properties were identified within the APE.

The District Environmental Branch retains the signed HPSR and supporting documentation in its project files. The District HRC sends one copy of the completed HPSR with supporting documentation to any consulting parties, and one copy to the appropriate Information Center.

HPSR to SHPO

When cultural resources that require evaluation are present in the APE, *whether eligible or not*, the Caltrans district PQS complete the “HPSR to SHPO” section transmits the HPSR to SHPO for concurrence on the eligibility findings. These HPSR findings are used even if the resources present will not be affected by the proposed project.

When to use “HPSR to SHPO”

This section of the HPSR is completed when the APE contains:

- Any built-environment cultural resources that require evaluation.
- Any archaeological sites that require evaluation.
- Any Native American cultural site that require evaluation.

Under most circumstances, NRHP eligibility evaluations for built-environment resources (such as buildings, structures, and districts) are included in the Historic Resources Evaluation Report (HRER). Prehistoric archaeological sites are evaluated

in an Archaeological Evaluation Report (AER), while historical archaeological sites are evaluated in an HRER. These evaluation documents are attached to the HPSR.

On occasion, a “HPSR to SHPO” section also may be used when archaeological sites in the APE will require Phase II test excavations to determine their NRHP eligibility. In these circumstances, the HPSR documents the presence of potentially eligible sites within the APE and states that archaeological testing to determine eligibility will be undertaken if the selected alternative will affect the sites and the project cannot be redesigned to avoid them. After a test excavation is completed, the Caltrans district must transmit a Supplemental HPSR with the test excavation report to SHPO.

Processing the “HPSR to SHPO”

Under the 106 PA, these HPSRs and Supplemental HPSRs are processed as described below.

The District HRC transmits one copy of the “HPSR to SHPO” and attached documentation to SHPO and one copy to CSO along with a copy of the transmittal letter. The HRC should send one copy to consulting parties (such as Indian tribes or local governments) at this time so they have an opportunity to convey any comments to SHPO. The Caltrans district letter to SHPO transmitting the HPSR will request SHPO’s concurrence on Caltrans’s determinations of eligibility. If pertinent, the letter may state Caltrans has made a finding of No Historic Properties Affected or No Adverse Effect with Standard Conditions and is transmitting that finding to CSO in accordance with the 106 PA. In order to reduce paperwork, if there are state-owned historical resources within the APE, the HPSR and the transmittal letter also will request SHPO’s comments under PRC 5024(b) to add the state-owned historical buildings or structures to the Master List of Historical Resources (Master List) pursuant to [PRC 5024\(d\)](#). (See [Exhibit 2.12](#) for sample transmittal letters.)

Note that under the 106 PA, Caltrans is acting as assigned by FHWA. In addition, Caltrans is given the authority to determine the APE and scope of identification efforts, but SHPO reserves the right to comment on both. SHPO’s response may be concurrence, but also may be a request for additional information.

In the rare event that the Caltrans district, CSO and SHPO do not reach agreement on determination(s) of eligibility, CSO must obtain a formal determination of eligibility from the Keeper of the National Register, whose determination is final.

Once SHPO has concurred on Caltrans eligibility determinations and the district finalizes HPSR and the District HRC sends a copy of the HPSR and transmittal letter to the CSO Section 106 Branch Chief for filing and a copy of the HPSR to the appropriate Information Center. The District HRC notifies any consulting parties of SHPO's concurrence. If the HPSR included state-owned resources, the District HRC also notifies the BEPS Branch Chief in CSO of the finding for the state-owned resource(s), including the resource's location by county, route, and post mile and SHPO's comments on eligibility.

Note that for NEPA compliance, a copy of the SHPO letter concurring on eligibility must be included in the draft environmental document. At the conclusion of consultation, SHPO's letter is attached as an exhibit to the environmental document. A statement summarizing the consultation is also included in the environmental document. If SHPO does not comment or the SHPO's 30-day review deadline has passed, the Caltrans district will include a copy of the email message that notifies SHPO that the district is moving forward.

HPSR to CSO

When to use "HPSR to CSO"

When the HPSR contains documentation that a project will have no adverse effect by using standard conditions either: 1) through establishing ESAs to protect archaeological sites or built-environment historic properties, or 2) through the use of the SOIS, Caltrans may use the HPSR document a Finding of No Adverse Effect with Standard Conditions (FNAE-SC-ESA or FNAE-SC-SOIS). See Exhibits [2.7](#), [2.8](#) and 7.5.

Processing the "HPSR to CSO"

The Caltrans District completes the "HPSR to SHPO" section of the HPSR and the District HRC transmits one copy of the HPSR and supporting documentation to the CSO Section 106 Branch Chief. Where Caltrans has *not* assumed FHWA's responsibilities for environmental review and compliance, the District HRC provides two copies of the HPSR and supporting documentation to the CSO Section 106 Branch Chief who will send the HPSR package to FHWA.

The HRC must send one copy to consulting parties (such as Indian tribes or local governments) at this time so they have an opportunity to convey any comments to CSO. The Caltrans district memo to CSO transmitting the HPSR will state that Caltrans has made an FNAE-SC (ESA and/or SOIS) and is transmitting that finding in

accordance with the 106 PA. As outlined in the 106 PA [Stipulation X.B.1](#), if within 15 days of receipt CSO or FHWA does not object to the proposed FNAE-SC-ESA or -SOIS, the undertaking shall not be subject to further review under this Agreement. CSO will provide quarterly summary notification to SHPO of all FNAE-SC findings in accordance with 106 PA [Stipulation XX.G\(3\)](#).

The Caltrans district may send an HPSR containing both “HPSR to SHPO” and “HPSR to CSO” findings when SHPO previously has not commented on determinations of eligibility for evaluated properties and the undertaking will avoid potential effects through the use of an FNAE-SC. However, *any FNAE-SC finding is contingent upon SHPO’s concurrence with eligibility.*

In order to reduce paperwork, if there are state-owned historical resources within the APE, the Caltrans district also must concurrently transmit the HPSR and supporting documentation to CSO for review and requesting CSO’s or SHPO’s comment on Caltrans’s determination of no adverse effect to state-owned historical resources pursuant to PRC 5024(f) for historical resources not on the Master List (CSO review) and pursuant to PRC 5024.5 for historical resources on the Master List (SHPO concurrence) and requesting that CSO and SHPO use the HPSR and supporting documentation for the review. (See [Section 2.8.6.1](#) below and [Exhibit 2.12](#) for sample transmittal letters.)

2.5.2.2 Supplemental HPSR

Sometimes it is necessary to prepare a Supplemental HPSR to account for project-related factors not treated in the original HPSR.

Common reasons for preparing a Supplemental HPSR include:

- A project APE has been revised or enlarged, resulting in the need to consider cultural resources not covered in the original HPSR.
- A Phase II or evaluation report on an archaeological site has been completed, providing eligibility information that was not available in the original HPSR.
- The original HPSR requires revision because the project has changed, there is a need for an environmental reevaluation, or there have been changes to a previously evaluated cultural resource.

A Supplemental HPSR follows the general format of the HPSR and includes all pertinent new or revised technical documents. It presents abbreviated information regarding the project and summarizes the findings of the original HPSR, but it will

focus upon the results of identification and evaluation efforts within an expanded APE or upon the changed conditions that led to preparation of the Supplemental HPSR. If the change involves archaeological sites that have been subjected to Phase II excavations to assess eligibility, the AER will be attached to the Supplemental HPSR.

2.5.2.3 Relationship of HPSR to Categorical Exemptions and Exclusions

Projects handled as Categorical Exclusions under NEPA or Categorical Exemptions under CEQA may not require an HPSR because they are screened undertakings under 106 PA [Stipulation VII](#) and [Attachment 2](#). Others might require an HPSR and the finding would be No Historic Properties Affected.

2.5.3 Findings of Effect Documents

Types of Finding of Effect Documents

Caltrans should begin to prepare the finding of effect as soon as it becomes reasonably clear that the document will be needed to support release of the draft environmental document to the public. This will result in either an FNAE without standard conditions (FNAE-No SC) or a finding of adverse effect (FAE). While the responsibility for determining effect formally lies with CSO, Caltrans districts prepare all effect documents for federally funded or approved Caltrans projects. CSO uses the Caltrans district-prepared document for its consultation with SHPO, and when applicable, the Council. [Exhibit 2.8](#) contains guidance for FNAE-No SC documents while [Exhibit 2.9](#) contains guidance for FAE documents.

Although a limited assessment of effects to historic properties may be included within an HPSR to support a finding of No Historic Properties Affected or No Adverse Effect with Standard Conditions, most often a finding of effect document is prepared when:

- A project is found to have an effect on historic properties.
- The HPSR did not discuss FNAE-SC findings.

A single Finding of Effect is prepared for the project as a whole, but the report should contain a description and analysis of the individual effects to each historic property in the APE. This information may be needed for 4(f) analysis.

It is advisable for the appropriate Caltrans PQS to coordinate with the PDT on project effects and possible mitigation measures prior to finalizing the finding of effect doc-

ument. If state-owned historical resources are within the APE, [5024 MOU Stipulation III](#) allows concurrent Section 106 and 5024 review using the Section 106 documentation for PRC 5024 compliance. Caltrans staff need to include language in the HPSR and other Section 106 documents and correspondence that Caltrans is simultaneously complying with the stipulations in the 5024 MOU when consulting with CSO and SHPO; see [Section 2.8](#).

Appropriate Caltrans PQS staff assess a project's effect on historic properties through application of the Criteria of Adverse Effect [[36 CFR 800.5\(a\)\(1\)](#) and (2)] and propose a finding to CSO. Working with Caltrans district PQS and in consultation with SHPO, CSO applies these criteria to determine if the project will have an adverse effect on historic properties. If an effect is found, CSO needs to determine which of the two kinds of effects the project would have on historic properties:

- No Adverse Effect without Standard Conditions
- Adverse Effect

If the APE contains more than one historic property, it is possible that the project may have no adverse effect on some historic properties, but an adverse effect on others. The finding, however, will be at the highest level of effect found for any *one* historic property in the APE, that is, the finding is for the undertaking as a whole.

Caltrans district PQS staff assess each alternative in the document. When the finding of effect document assesses several alternatives, CSO states in the document that it requests SHPO's concurrence on the effect of each alternative.

The process for making an effect determination is discussed above in [Section 2.3.7](#). When the project would result in effects to historic properties, depending on the type and severity of the effect, Caltrans uses the finding of effect document to

- Describe why the project effects do not meet the Criteria of Adverse Effect, in which case the document would be a Finding of No Adverse Effect without standard conditions (FNAE-No SC).
- Propose modification of the project or conditions that would avoid adverse effects in a FNAE document.

Example:

There are four historic properties in the APE and the project would have

- no effect on one historic property,
- no adverse effect on two historic properties
- adverse effect on one historic property.

The project, overall, would have an **adverse effect** – the highest level of effect.

- Propose measures to minimize or mitigate the adverse effects, in which case the document would be a Finding of Adverse Effect (FAE).

2.5.3.1 No Adverse Effect without Standard Conditions

CSO may propose a No Adverse Effect finding that does not employ either of the two standard conditions discussed in Section [2.3.9.2](#) above and [Exhibit 2.8](#). The undertaking may include components *within* the NRHP boundaries of a historic property or new construction adjacent to the historic property, and while there is an effect, the characteristics that qualify the historic property for the NRHP are not diminished. Or, the project may be designed with conditions imposed that are no standard conditions. In these situations, CSO forwards the FNAE-SC to SHPO. If SHPO agrees to the finding and no objections are raised, Section 106 is concluded.

Processing the FNAE-No SC

The Caltrans District completes FNAE-No SC and transmits two copies of the proposed finding to CSO for review and requests CSO to forward the finding to SHPO. The Caltrans district must provide concurrent notification of the finding to any consulting parties and give them 30 days to comment to CSO.

According to the 106 PA [Stipulation X.B.2](#), SHPO has 30 days to respond to CSO's finding, either by agreeing or by asking for more information. If SHPO does not respond within 30 days after receipt of documentation, CSO may assume concurrence in the finding. However, SHPO and CSO may agree to extend that time on a project-by-project basis. Note that for NEPA compliance, a copy of the SHPO letter concurring on effect must be included in the draft environmental document. If SHPO does not comment or the SHPO's 30-day review deadline has passed, the Caltrans district will include a copy of the email message that notifies SHPO that the district is moving forward.

If there are state-owned historical resources within the APE, the Caltrans district also must concurrently transmit the FNAE-No SC and supporting documentation to CSO for review pursuant to PRC 5024(f) for historical resources not on the Master List and pursuant to PRC 5024.5 historical resources on the Master List and that CSO use the FNAE-No SC and supporting documentation for the review. See [Section 2.8.6.1](#) below and [Exhibit 2.12](#) for sample transmittal letters.

2.5.3.2 Adverse Effect

Archaeological Properties Significant Solely for Information Value

When an undertaking's adverse effects are to archaeological properties significant solely for their information value (NRHP Criterion D), the 106 PA [Stipulation X.C.2](#) has special provisions. The Caltrans district concurrently notifies CSO, SHPO, and consulting parties, as appropriate, of the proposed FAE and gives these parties 30 days from receipt of documents to comment on the FAE. If the 30-day period expires without SHPO comment or agreement to extend the review period, the Caltrans district may move forward upon notification to the SHPO via e-mail or other written communication. This is an important timesaving step, as the regulations do not prescribe a response time for SHPO on adverse effect findings.

The 30-day response period is to comment on the FAE for archaeological properties significant solely for their information value (NRHP Criterion D); the response period does not apply to the adequacy of the Data Recovery Plan.

Adverse Effects to Historic Properties

When a project will result in adverse effects to historic properties, the Caltrans district proposes to CSO an FAE. CSO then consults with SHPO on the finding. The Caltrans district concurrently notifies consulting parties. If disagreements arise on the assessment of effect, the Caltrans district, CSO and SHPO, and any consulting parties, consult for no more than 30 days to resolve the disagreement. The 106 PA [Stipulation X.D](#) specifically provides that Indian tribes who disagree with the effect determination may directly request the Council to review the disagreement and the Council will respond within 30 days. In the rare situation where CSO and SHPO cannot agree, CSO will request the Council to review the situation, and the Council will provide a response within 30 days.

CSO may submit the FAE alone, to be followed later by a Memorandum of Agreement (MOA) with proposed mitigation measures, or a draft MOA may accompany the FAE document. On routine projects with predictable MOA stipulations, it is efficient to submit an MOA with the FAE document. For controversial projects, however, it may be prudent to submit the FAE alone then continue consultation with SHPO regarding appropriate mitigation measures. The Caltrans district and CSO would write the MOA following verbal agreement among the parties on appropriate mitigation measures. When the MOA is written after the FAE is submitted, CSO's

submission of the FAE to the Council must be accompanied by information on mitigation measures and project alternatives considered but rejected and the reasons for their rejection. Since the FAE should contain these discussions, submitting a copy of the FAE along with the MOA will satisfy this requirement.

If accompanied by an MOA, the FAE discusses mitigation measures and project alternatives considered but rejected, with reasons for decisions. The FAE includes a summary of individual effect findings for all the historic properties in the APE, including any that were not affected.

Processing the FAE

The Caltrans District completes FAE and transmits two copies of the proposed finding to CSO for review and requests CSO to forward the finding to SHPO. The Caltrans District must notify Indian tribes and other consulting parties and interested members of the public of the FAE. Per agreement in the 106 PA [Stipulation X.C.2](#), however, the Caltrans district may consult directly with SHPO on the effect finding when the adverse effect is to archaeological sites eligible only under Criterion D. In that case, the Caltrans district provides a copy of the FAE and transmittal letter to the CSO Section 106 Branch Chief.

The Caltrans district memo to CSO Section 106 Branch Chief requests that CSO consult with SHPO regarding the project's effects on historic properties in the APE. According to the 106 PA [Stipulation X.C.2](#), SHPO has 30 days to respond to CSO's finding, either by agreeing or by asking for more information. If SHPO does not respond within 30 days after receipt of documentation, CSO may assume concurrence in the finding. However, SHPO and CSO may agree to extend that time on a project-by-project basis. Note that for NEPA compliance, a copy of the SHPO letter concurring on effect must be included in the draft environmental document. If SHPO does not comment or the SHPO's 30-day review deadline has passed, the Caltrans district will include a copy of the email message that notifies SHPO that the district is moving forward.

If there are state-owned historical resources within the APE, the Caltrans district mentions this fact in the transmittal memo to the CSO Section 106 Branch Chief requesting SHPO's concurrence under [5024 MOU Stipulations III](#) and [X](#), using the Section 106 supporting documentation (See [Section 2.8.7](#) below and [Exhibit 2.12](#) for sample transmittal letters.)

2.5.3.3 Memorandum of Agreement

The Caltrans district PQS draft the MOA. [Exhibit 2.10](#) contains guidance for MOA format and content.

At a minimum, the signatories to an MOA include DEA and SHPO. The Caltrans district is a formal concurring party to the MOA when responsibilities are assigned to the Caltrans district in the MOA stipulations. After being notified of the FAE, the Council may choose to participate in the consultation under specific conditions, or CSO or SHPO may request Council participation. Other consulting parties, such as the head of local government or the representative of a Native American tribe, must be invited to participate as consulting parties under certain circumstances and may be asked to participate as concurring parties at the discretion of CSO and SHPO.

The MOA may be rewritten several times in the course of the consultation process. Two-party MOAs are used to reach agreement between DEA and SHPO, while three-party MOAs are used to reach agreement when the Council participates along with CSO and SHPO. Whether the Council is involved, CSO must provide a copy of the MOA to the Council for inclusion in its files so it will have documentation of the agency's implementation of Section 106.

The signed MOA is also crucial to the Section 4(f) evaluation for a project involving an adverse effect to a historic property, because the MOA demonstrates that the consulting parties have completed all possible planning to minimize harm to the historic property.

2.5.3.4 Failure to Agree on Resolution of Adverse Effect

If the signatory parties (SHPO and DEA) fail to agree, any party may terminate consultation following the guidance of [36 CFR 800.7](#). If SHPO terminates consultation, DEA and Council may execute an MOA. If CSO terminates consultation, the Caltrans Director must request Council's comments on the project. *Except in failure-to-agree situations, DEA will not approve the final environmental document without a signed MOA.*

2.5.4 Relationship of Section 106 to the Environmental Document

The Section 106 process usually progresses to the point where SHPO has concurred in any historic property eligibility determinations and has been consulted regarding project effects on historic properties before CSO gives its approval to circulate the draft environmental document.

If archaeological sites are not a major factor in selecting a preferred alternative, eligibility and effect determination for archaeological sites may be deferred until after circulation of the draft environmental document. Any sites that are on common alignment, however, must be evaluated prior to the draft document. Because of concern for identifying potential Section 4(f) properties, sufficient information must be available to evaluate whether each site is important chiefly for what can be learned through data recovery or if it warrants preservation in place. For projects with multiple alternatives, the draft environmental document should explain the proposed treatment of historic properties for each alternative in appropriate detail.

Some flexibility does exist, but CSO must approve any deviations from the standard Section 106 milestones in the draft environmental document.

Although the draft environmental document may be used in place of submitting a separate finding of effect document as the vehicle to afford SHPO an opportunity to comment on a project, this approach is not recommended because of potential delays, the need for unwieldy detail on historic property effects and proposed treatments, dispersal of pertinent historic property discussions throughout the document, and the potential for complicating the environmental process.

The final environmental document must demonstrate that all requirements of Section 106 have been met.

If the preferred alternative has an effect on historic properties, the final environmental document must provide evidence of the outcome of consultation. This usually includes copies of SHPO correspondence and a fully executed MOA. Under the 106 PA, when the finding is a No Adverse Effect with Standard Conditions, the Caltrans district is required only to notify CSO and SHPO, and consultation is then concluded, thus there may be no final response letter from SHPO to include in the environmental document. This should be explained in the text of the final environmental document.

Mitigation measures are usually carried out after the final environmental document is approved.

Discussions of historic properties in the environmental document should be clear, concise, and to the point. The environmental document should include summaries of the following:

- Results of surveys and consultation undertaken (if no survey or consultation was performed, explain why not).
- Number and type of NRHP eligible or listed historic properties in the APE.
- Number and type of historic properties to be affected by the project.
- Proposed treatment of those historic properties.

Include letters documenting SHPO concurrence in the environmental document's appendix, as appropriate. If no cultural resources were identified, a statement so indicating is included in the environmental document, but no supporting documentation is required. The environmental document, however, should identify the methods used to arrive at that conclusion, such as the preparation of an HPSR.

The Section 106 Cultural Resources Process Checklist may be helpful in guiding Caltrans district staff through a series of decisions to decide whether and what type of Section 106 finding will be required for a Categorical Exclusion/Exemption project. See [Exhibit 4.1](#) for further guidance.

All back-up reports referenced in an environmental document must be made available to the public. This may include an HPSR.

Section [6254.10](#) of the California Government Code exempts archaeological records from public disclosure requirements. If archaeological site(s) are depicted on the APE map, the map should also be removed to protect the site(s') locations.

If an ASR contains information or mapping showing the locations of archaeological sites, however, the ASR shall be removed from all copies of the HPSR before it is circulated to the public. In its place, a page should then be inserted explaining that the ASR has been deleted because archaeological records are confidential.

It is important that cultural resources specialists who prepare cultural resources summaries for Section 106 documents also prepare the historic property summaries to be included in environmental documents. See [Exhibit 2.15](#) for what goes into the summaries. District PQS should review historic property sections of environmental documents for clarity and completeness. Close cooperation will help ensure adequate and accurate summaries of Section 106 compliance in the environmental documents.

2.5.5 Internal Review and Approval of Cultural Resources Documents

Under the 106 PA, Caltrans is responsible for quality control of cultural resources documents. In accordance with 106 PA [Stipulation XVIII](#), Caltrans will not transmit documentation to CSO and SHPO until Caltrans PQS has reviewed and approved it. Internal review and approval applies to all Section 106 documents and technical studies and reports, and to all state-only Historical Resources Compliance Reports and technical studies and reports. See [Exhibit 2.11](#) Table C for information on the Caltrans PQS levels that required for peer reviews and reviews for Environmental Branch Chief⁴ (EBC) approval for the various cultural resource document types.

2.5.5.1 Peer Reviews

All draft Caltrans-prepared and consultant-prepared reports shall be peer reviewed by one or more Caltrans PQS in the relevant discipline(s). District PQS, or upon request to the CSO Chief, CSO PQS will review these documents. CSO PQS will give such reviews the highest priority in work assignments and will complete review within 15 working days of receipt of request. Districts may arrange routine review of documents with the appropriate CSO Branch Chief.

When reviewing documents that will be submitted to comply with Section 106, it is necessary to remember the purpose of the submittal and the external agency reviews. The document must present clear, factual information about the project, supported by technical studies that are professionally competent and trustworthy. External reviewers generally know only what is presented in the document. What seems obvious to specialists who prepared the studies is not necessarily obvious to external agency reviewers. Caltrans-specific terminology and acronyms are not clear to everyone. External reviewers also may have their own needs for particular items of information, such as property addresses that need to be entered into their databases in a specific way. See [Chapters 5, 6 and 7](#) and [Exhibit 1.6](#) for PQS levels required for peer review. [Exhibit 2.13](#) for peer review standards and [Exhibit 2.15](#) for what constitutes good summaries for NRHP eligibility, project effects and consultant preparer qualifications.

In general, reviewers should keep the following questions in mind:

- *What is the undertaking?*
 - Is it clearly described and justified?

⁴ Typically, the DEBC, but may include the appropriate CSO Branch Chief for documents that are not related to a specific district project, such as those done in conjunction with Caltrans corporate functions.

- What is the extent of ground-disturbing activities, including utility relocation, staging areas, etc.?
- Is there a potential for indirect effects?
- *Is the APE described, mapped, justified and signed by Caltrans PQS?*
 - If a Study Area was used, is it distinguished from the APE?
 - If an Area of Direct Impact is indicated, is it within the APE?
 - Are APE maps legible with properties appropriately labeled?
- *Are identification and survey efforts adequate?*
 - Are identification methods described?
 - For properties being evaluated, are historic contexts adequately developed?
 - Are addresses (or similar locational information) listed for all properties?
 - Are properties shown on APE maps?
 - Are photos provided for built resources, such as buildings and structures?
- *For each NRHP eligible historic property, are all the following included?*
 - Criteria under which found eligible.
 - Reasons for eligibility.
 - Level of significance.
 - Period of significance.
 - Contributing and non-contributing elements.
 - Spatial limits of the historic property (and NRHP boundaries if different) shown on maps and described in the text.
- *Who did the survey and evaluations?*
 - If not Caltrans PQS, are their qualifications provided?
 - Do they meet appropriate PQS levels for actions taken under the 106 PA?
- *For effect finding documents, are the following included?*
 - Historic properties adequately described to understand the effect?
 - Project effects described for each property?
 - One effect finding for the undertaking as a whole?
 - Any special conditions such as ESAs adequately described to understand the effect finding?

2.5.5.2 Approvals

The District Director has review and approval authority for all cultural resources compliance documents but typically delegates this responsibility to DEBCs (and CSO for certain corporate functions). When requested by the district, the appropriate CSO Branch Chief and the CSO Chief shall review and approve reports in draft form that are prepared by CSO PQS or consultants. CSO then will send the draft document to the requesting DEBC for review and final approval. In the event that the DEBC disagrees with the conclusions regarding the eligibility of a resource, refer to the process for resolving disagreements and differences of opinion outlined in [Section 2.11](#).

Following peer review of a draft cultural resources document and after any necessary revisions have been made, the final document is signed by the document preparer(s), the responsible PQS (indicating review and approval), and the appropriate EBCs (indicating final review and formally approval). While one or more EBCs may approve and sign technical studies that involve more than one discipline, e.g. HRERs, combined archaeological and built environment identification and evaluation studies, only one EBC signs the cover document, i.e. the HPSR, or Finding of Effect.

Caltrans-prepared final documents—in addition to the author(s) signature, the following approval signatures are needed:

1. District or CSO PQS signature signifying review for EBC approval
2. EBC signature signifying review and approval

Consultant-prepared final documents—the following approval signatures are needed:

1. Optional Consultant author(s) signature(s), but author name(s) must appear on the document
2. District PQS signature signifying review for DEBC approval
3. EBC signature signifying review and approval

Caltrans has policies and procedures for the external distribution and publication of Caltrans-prepared and consultant-prepared reports and public presentations. Prior to distributing reports or making public presentations, consult [Exhibit 2.16](#).

2.5.5.3 Local Agency Studies

In accordance with 106 PA [Stipulation XVIII.B](#), local agencies must submit to Caltrans for review and approval by Caltrans PQS all documentation prepared by local agencies or their consultants in support of findings and determinations made under the 106 PA. Caltrans will not transmit documents to outside agencies until Caltrans PQS have reviewed and approved the documents, as described above. If a district does not have PQS in the appropriate discipline, CSO PQS will review documents upon request of the DEBC to the CSO Chief. Such reviews will be completed within 15 working days of receipt of request. The process for resolving disagreements and differences of opinion regarding consultant-prepared findings and determinations is outlined in [Section 2.11](#).

2.5.6 Annual Reporting under the 106 PA

The Programmatic Agreement requires that Caltrans submit a report to FHWA, SHPO, and Council on activities conducted under the terms of the 106 PA. The report will be submitted annually. It is due three months after the end of the state's fiscal year (that is, September 30). The purpose of the report is to ensure the 106 PA is being properly implemented, to see if it is improving efficiency in delivering the

Federal Highway-Aid Program, and to see if there are ways the 106 PA may be improved through amendment.

The CSO Chief is responsible for compiling the information contained in the report, but in practice the CSO Section 106 Branch Chief will work with district staff in the compilation effort. At the end of the fiscal year, each DEBC, or District HRC as so directed, will provide the appropriate information to the CSO Section 106 Branch Chief. The CSO Section 106 Branch Chief will collate the information into one document that meets the 106 PA requirements. The CSO will oversee distribution of the report and keep copies on hand for public inspection.

2.5.7 Federal Compliance and Excess Property

NEPA does not apply when Caltrans disposes of its excess parcels. According to Caltrans Internal Guidance, "...absent any requirement for federal approvals, their disposal has no federal nexus that would trigger NEPA." *Therefore, if there is no federal undertaking, Section 106 compliance does not apply.* If any portion of the disposal activity triggers the need for federal approval, then the property transfer is a federal undertaking, and the HPSR format would be used (See [Exhibit 2.6](#)) instead of the Historical Resources Compliance Report. The same principles described below apply for both types of documents.

2.6 State-Only Projects

2.6.1 Introduction

Caltrans projects with federal involvement are subject to both federal and state law, but when there is no federal involvement, the historical resources compliance process is subject only to state law and regulation. Under state environmental law, consideration of historical resources is primarily carried out in the context of California Environmental Quality Act ([CEQA](#)) compliance. However, there are other applicable statutes as discussed below.

Consideration and treatment of significant historical resources under state law is similar to that of federal law, but there are important substantive and procedural distinctions between CEQA and Section 106 and NEPA. There are also differences in terminology.

CEQA requires state and local agencies to prepare multidisciplinary environmental impact analyses and to make decisions regarding the environmental effects of proposed actions based on those analyses. Cultural resources are one among several

environmental areas that are analyzed in a CEQA document. The type of environmental document that is prepared for a plan or project depends on the complexity of the project and the potential for significant impacts in one or more areas of environmental analysis.

The lead agency under CEQA is responsible for resource evaluation, impact analysis, and determining appropriate mitigation. For most Caltrans projects, Caltrans is also the lead agency. For purposes of this section of the handbook, the term “Caltrans” means CEQA lead agency. There is no formal process of consultation with SHPO and thus no formal concurrence in determinations of significance and effect as there is under Section 106 of NHPA. Caltrans, however, may hold informal discussions with these agencies or with other responsible agencies or members of the interested public prior to the circulation of a draft environmental document.

2.6.2 Statutory Protections

The primary state environmental law that applies to Caltrans activities is CEQA ([Public Resources Code 2100](#) et seq). Other sections of the Public Resources Code establish the California Register of Historical Resources, a state listing of significant historical resources ([PRC 5024.1](#)); require state agencies to inventory state-owned resources and to formulate policies to preserve and maintain state-owned historical resources under their jurisdiction ([PRC 5024](#)); and require state agencies to consult with SHPO on projects affecting state-owned historical resources ([PRC 5024\(f\)](#) and [5024.5](#)); see [Section 2.8](#) below. The [CEQA Guidelines](#) (14 CCR 1500 et seq) provide guidance on implementing CEQA and the CRHR regulations ([14 CCR 4850](#) et seq) provide further guidance on using the CRHR eligibility and integrity criteria and special considerations. [Executive Order W-26-92](#) reinforces the requirements of [PRC 5024](#) and [5024.5](#). State regulations are summarized more fully in [Chapter 1](#), Volume 2, and are available in full in the SER [Volume 1](#).

Definition of Historical Resources under CEQA

Under CEQA, the State Historical Resources Commission (SHRC) defines a historical resource as a resource listed in or determined eligible for listing in the CRHR. Although the criteria for listing in the CRHR are similar to those for listing in the NRHP, the CRHR encompasses a broader range than the NRHP as to *types* of resources that may meet the CRHR eligibility criteria. In addition to CRHR listed resources and those found by the SHRC to be eligible for the CRHR, *NRHP listed and eligible properties are automatically included in the CRHR and are historical*

resources under CEQA. This includes all properties that were determined eligible for listing in the NRHP as a result of Section 106 compliance.

Effective in 2015, under CEQA there is a new category of historical resource called a tribal cultural resource (TCR), which is defined in PRC 21074(a). The statute identifies a tribal cultural resource as a CRHR or local register eligible site, feature, place, cultural landscape or object that has cultural value to a California Native American tribe. For purposes of the guidance in the SERv2 the term “historical resource” includes tribal cultural resources that are listed in or meet the criteria for listing in the CRHR, or that are included in a local register. [Chapter 4](#), Section 4.4.2.4 contains more information on identifying TCRs in a CEQA context.

Under state law only the State Historical Resources Commission can make determinations of eligibility for the CRHR. SHPO has stated that Caltrans may not use that terminology when it evaluates resources for CEQA compliance. Caltrans documents need to state that a resource “is (or is not) a historical resource under CEQA because it meets (does not meet) the CRHR criteria, as outlined PRC 5024.1.”

Although not automatically listed in the CRHR or automatically determined eligible by the SHRC as outlined in the CRHR procedures, historical resources under CEQA also include resources listed in a local register of historical resources and resources that are identified as significant in local surveys that conform to state Office of Historic Preservation (OHP) standards.

The presence of *any* cultural resources within a project area requires that cultural resources studies be initiated to determine whether any of these resources would be historical resources under CEQA. While federal regulations do not apply to state-only projects, the procedures in 106 PA Attachments 4 and 5 may be used to be in compliance with CEQA.

The 2014 passage of Assembly Bill 52 became law when it was added to the California Public Resources Code as PRC 21074(a), creating a new category of historical resource called a Tribal Cultural Resource (TCR). While the statute clearly identifies a TCR as separate and distinct category of resource separate from historical resources, for purposes of this guidance Caltrans will use the inclusive term historical resource. [Chapter 3](#) discusses consultation with Native Americans and identifying TCRs in a CEQA context.

2.7 State-Only Procedures

2.7.1 State-Only Compliance Process Overview

When there is no federal involvement in a project, and the project does *not* meet the criteria for Screened Undertakings (see [5024 MOU Attachment 2](#) and [Exhibit 7.3](#) for historic bridges and tunnels), Caltrans prepares a Historical Resources Compliance Report (HRCR). [Exhibit 2.14](#) has guidance on HRCR format and content. The DEBC determines if cultural resources studies are necessary, based on the guidance outlined in this volume of the *SER*.

Caltrans policy is to use the instructions outlined in the [106 PA attachments](#), and for state-owned resources in the [5024 MOU](#) attachments, for determining Professionally Qualified Staff (Attachment 1), defining Screened Undertakings (Attachment 2), setting Project Area Limits (Attachment 3), defining Properties Exempt from Evaluation (Attachment 4), establishing Environmentally Sensitive Areas (Attachment 5), and developing Data Recovery Plans (Attachment 6) for state projects. For state-owned cultural resources 5024 MOU Attachments 4, 5 and 6 have similar names but slightly different requirements and streamlining measures.

The HRCR has the following functions:

- Detailing identification efforts.
- Documenting consultation with interested parties and public participation
- Describing any identified historical resources.
- Discussing why they were assessed as historically significant.
- Assessing the effect of the project on each historical resource.
- Describing the measures proposed to mitigate project or activity's effects on each historical resource.

Information from the HRCR is summarized in the draft environmental document, where a concise discussion of historical resources identification, significance, effect, and mitigation appear. The HRCR serves as the technical document that supports the conclusions contained in the environmental documentation. See [Section 2.9](#) for further details on the HRCR.

2.7.2 Need for Cultural resources Studies

2.7.2.1 Statutory Exemptions under CEQA

CEQA allows two types of exemptions, statutory and categorical. Statutory exemptions are projects specifically excluded from CEQA review by the State Legislature. These exemptions are listed in PRC [21080 et seq](#) and in the [CEQA Guidelines](#) in [15260](#). Statutory exemptions apply to any project that falls under its definition regardless of the project's potential impact to the environment. *If a project is statutorily exempt, no cultural resources studies are required, unless the resources are state owned.* When state-owned resources are involved Caltrans must still comply with PRC 5024. See [Section 2.8](#).

2.7.2.2 Categorical Exemptions

Categorical exemptions (CEs) are classes of projects that generally are considered not to have potential impacts on the environment. The Secretary of the Resources Agency identified categorical exemptions, which are defined in the CEQA Guidelines [15300-15331](#)).

If a project has the potential to cause significant impacts to historical resources, categorical exemptions do not apply.

To determine if there are significant historical resources in the project area, and if so, whether they may be significantly impacted by the project, the District Environmental Branch staff, or upon request CSO staff, prepares an HRCR. If the HRCR concludes that no significant historical resources are present, or those resources, although present, will not be significantly impacted, the district PQS provides this information to the senior planner or DEBC responsible for the CEQA documentation.

2.7.2.3 Negative Declaration and the EIR

The district staff responsible for CEQA documentation determines no exemption applies, a cultural resources analysis must be included in one of the following types of documentation:

- Negative Declaration (ND).
- Mitigated Negative Declaration (Mitigated ND).
- Environmental Impact Report (EIR).

District PQS staff provide summary descriptions of historical resource significance and impacts to historical resources to the senior planner or DEBC responsible for

CEQA documentation. This information may be excerpted from the HRCR. See [Exhibit 2.15](#) for guidance on what to look for in these summaries.

2.7.3 Project Area

Caltrans PQS and the Project Manager, or for local assistance project the DLAE, together establish a legally defensible project area that takes into account the potential direct and indirect impacts of the project upon historical resources. This project area is similar to an APE that is established for a federal project, however, under CEQA there is no formal APE. See [5024 MOU Attachment 3](#) for guidance in setting project area limits.

2.7.4 Identification of Historical Resources

Historical resources should be identified and evaluated as early as possible in the project development process. CEQA requires early involvement so that environmental issues may be taken into consideration in the project design process. Caltrans policy also requires early involvement. Early involvement allows lead-time for project redesign, selection of alternatives, and incorporation of mitigation. It also allows time to complete historical resources compliance without jeopardizing project delivery schedules, considering such factors as seasonal limitations on surveys and archaeological excavations. A test excavation and report for an archaeological site on a state-only project, for instance, may take seven to twenty-four months to complete, depending on whether the work is done in-house or by a consultant.

2.7.4.1 Research

Before undertaking fieldwork, Caltrans PQS or appropriately qualified consultants conduct preliminary research looking for previously identified cultural resources. See [Chapter 4 Section 4.4](#) for sources of information that must be consulted in the effort to identify cultural resources within the project area.

Caltrans PQS or appropriately qualified consultants conduct research to establish the historic context for evaluating each resource. Studies should be developed to the extent needed to understand and properly evaluate properties within that context. The HRCR documents the results of this research.

2.7.4.2 Cultural resources Surveys

The same approach to surveys that Caltrans uses for federal undertakings is used for state-only projects. See [Chapter 4 Sections 4.5](#) and [4.6](#) for further guidance. Caltrans must undertake a survey whenever any buildings or structures lie within the project

area, unless those resources previously have been evaluated. In general, all buildings and structures are surveyed regardless of age, integrity, or apparent value. However, see [Chapter 4](#) Section 4.4.1.1 and [106 PA Attachment 4](#) for a discussion of properties that qualify for exemption from evaluation. For a discussion of state-owned cultural resources that qualify for exemption from evaluation but need to be recorded, see [Chapter 4](#) Section 4.4.1.2 and [5024 MOU Attachment 4](#).

Guidance on conducting preliminary archaeological and reconnaissance surveys, pre-historic archaeological surveys, historical archaeological surveys, and built-environment surveys appears in [Chapter 4 Section 4.5](#). [Chapter 3](#) contains guidance on consultation with Native Americans.

2.7.5 Evaluation of Cultural Resources CEQA

Historical Resources under CEQA

If a resource meets any of the following criteria, it is already considered a historical resource under CEQA:

- Listed or determined eligible by the SHRC for the CRHR (including all NRHP listed and eligible properties).
- Listed in a local register of historical resources under local ordinance or resolution.
- Identified as significant in a local survey meeting OHP standards and the survey is less than 5 years old or the survey has been updated less than 5 years ago.

Unless there is new information or physical conditions have changed such that a re-evaluation of a historical resource is warranted, these types of resources likely will continue to be historical resources for purposes of the Caltrans project. Their existence in the project area, however, needs to be documented in the HRCR.

In addition to identifying the above-listed historical resources within a project area, Caltrans must ensure that any other cultural resources in the project area are evaluated. While federal regulations do not apply to CEQA, the procedures in 106 PA Attachments 4 and 5 may be used to meet Caltrans obligations for identifying historical resources.

Evaluation Criteria under CEQA

Caltrans evaluates the cultural resources in the project area using the criteria outlined in PRC 5024.1, as well as the relevant sections of the CRHR regulations adopted by the State Historical Resources Commission (SHRC) in the California Code of Regulations (14 CCR 4850 et seq). These regulations, however, also contain nomination procedures that do not apply to Caltrans projects.

Relevant sections of the CRHR regulations that Caltrans uses to evaluate historical resources include:

- [14 CCR 4850.1](#) – Purpose.
- [14 CCR 4851\(a\)](#) - Historical Resources Eligible for Listing in the California Register of Historical Resources (14 CCR 4851).
- [14 CCR 4852\(a\) through \(e\)](#) - Types of Historical Resources and Criteria for Listing in the California Register of Historical Resources.

Because the eligibility and integrity criteria provided in the CRHR regulations cited above are so similar to NRHP criteria, [National Register Bulletin 15](#) can provide valuable guidance in how to interpret these criteria. See [Exhibit 2.16](#) for a comparison of the CRHR regulation wording to that found in the NRHP criteria and National Register Bulletin 15.

Caltrans, as lead state agency on its projects, makes the determination as to whether a resource it evaluates is a historical resource under CEQA. It is not SHPO's determination. SHPO, however, can comment on that determination as part of the CEQA process.

Caltrans uses DPR 523 inventory forms to document evaluations. The forms are attached to the HRCR.

In addition, the HRCR provides a summary conclusion of eligibility. For each cultural resource that does not qualify as an exempted property according to [106 PA Attachment 4](#), state whether the property meets, or does not meet, the CRHR criteria as outlined in [PRC 5024.1](#). Add these conclusions to any existing CRHR listings or determinations identified earlier in the report.

If a historical resource meets the CRHR criteria, include the applicable criteria (Criteria 1, 2, 3, and/or 4), a brief description of how it meets these criteria, the level of significance, the period of significance, contributing and non-contributing elements of the resources, and a textual description of the historical resource's boundaries. The boundaries must be depicted on the appropriate DPR 523 form, as well as on the project area map.

It is Caltrans policy to apply both the NRHP criteria and the CRHR criteria simultaneously when conducting evaluations. Conclusion sections of the HRCR and the appropriate DPR 523 inventory forms will need to state whether a resource appears to be eligible for the NRHP, as well as whether it is a historical resource under CEQA because it meets CRHR criteria as outlined in [PRC 5024.1](#). The simultaneous use of NRHP and CRHR criteria is needed for compliance with PRC 5024 for state-owned resources (see [Section 2.8](#) below, and can save time and effort in having to reevaluate resources, should a state-only project become a federal undertaking.

2.7.6 Determination of Project Effects under CEQA

Caltrans determines the impact of the project on each historical resource by applying the criteria of significant effect set forth in state law and regulation. [PRC 5020.1\(q\)](#) defines "substantial adverse change" in a historical resource to mean:

- Demolition
- Destruction
- Relocation
- Alteration such that the significance of the resource would be impaired

California law is explicit that a substantial adverse change in the significance of an historical resource is a significant impact on the environment.

Any activity that would result in the destruction of a historical resource's characteristics would be a significant impact under CEQA when those characteristics justify the historical resource for:

- Inclusion in, or eligibility for, the CRHR.
- Inclusion in a local register (if designated under local ordinance or resolution).
- Identification as significant in a local survey that meets OHP standards.

Be aware that the word "adverse" is used differently in federal and state terminology. The federal "*Adverse Effect*" defines a *class* of actions regardless of mitigation; CEQA guidance, on the other hand, specifies that a project that adversely impacts a historical resource has a significant *effect on the environment*, but mitigation can reduce that effect.

Use the HRCR to identify and analyze potential impacts to historical resources.

2.7.7 Determination of Appropriate Mitigation under CEQA

CEQA requires that state and local agencies avoid or minimize significant adverse environmental impacts whenever feasible.

Caltrans PQS and appropriately qualified consultants may develop mitigation measures. For built-environment historical resources, when mitigation measures involve plans, specifications or are developed to minimize effects that physically affect these resources, the measures need to be developed or reviewed by, or under the direct supervision of, a Principal Architectural Historian. The kind of specialized experience needed to mitigation measures that directly affect built-environment historic properties is contained in [Chapter 1 Section 1.3.3](#) – Architectural History and History.

Mitigation measures should avoid, minimize, rectify, reduce, or compensate for physical impacts to resources. CEQA encourages the use of measurable performance standards that facilitate mitigation monitoring. In considering historical resource mitigation, remember that maintenance, repair, stabilization, rehabilitation, restoration, or preservation are considered to mitigate below a level of significant impact only when the work is consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* (SOIS)⁵.

If mitigation below a level of significant impact can be accomplished by changes in project design and can be incorporated into the project, a Negative Declaration (ND) may be appropriate, assuming there are no other environmental issues. To be feasible, a measure must be capable of being accomplished in a successful manner in a reasonable period of time.

Because CEQA requires that *physical* impacts must be avoided or lessened by mitigation, heritage documentation (Historic American Building Survey [(HABS), Historic American Engineering Record [HAER] or Historic Landscape Survey [HALS]) recordation does not mitigate below a level of significance in the case of demolition or destruction, but they may lessen impact in cases of alteration.

⁵ *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* (1995), Weeks and Grimmer

CEQA Class 25 Projects

Under CEQA [Guidelines 15325\(e\)](#) transferring a property in order to preserve historical resources is considered a CEQA CE. Under this classification, Caltrans would need to ensure that the historical resource is protected and preserved and, under PRC 5024, Caltrans must consult with SHPO prior to the transfer taking place. See [Section 2.8.10](#) below, the [5024 MOU Stipulation XVI](#) and [Chapter 7 Section 7.12.7](#): Protective Covenants, Conservation Easements and Preservation Agreements. Caltrans District PQS should coordinate with the project environmental generalist regarding the applicability of this class of project as there may be other environmental considerations.

CEQA Class 31 Projects

If the *only* activity under consideration is maintenance, repair, stabilization, rehabilitation, restoration, or preservation of a historical resource, and the work is done according to the SOIS cited above, the project is considered a [Class 31](#) project and is a CEQA CE. To ensure these activities are consistent with these standards, they must be reviewed by, or under the direct supervision of, a Principal Architectural Historian. For specialized experience needed to conduct this review, see guidance in [Chapter 1 Section 1.3.3](#) - Architectural History and History. Caltrans District PQS should coordinate with the project environmental generalist regarding the applicability of this class of project as there may be other environmental considerations.

2.7.7.1 Archaeological Sites

Under CEQA, avoidance is the preferred mitigation for archaeological sites. The CEQA Guidelines [15126.4\(b\)\(3\)](#) provides discussion of archaeological mitigation. When data recovery is the only prudent and feasible alternative, prior to any excavation a DRP must be prepared that provides for recovery of scientifically consequential information.

All DRPs that identify costs of \$500,000 and above must be sent to CSO for review and comment.

CSO will complete its review in fifteen (15) working days from receipt of the plan. DRPs are filed with the California Historical Resources Regional Information Center.

Data recovery under CEQA is not required when Caltrans determines that already-completed studies have adequately recovered a site's important information. Mitiga-

tion cost limitations do not apply to public agencies that comply with CEQA provisions regarding mitigation of significant effects. Provisions for dealing with accidental discovery of archeological sites in the course of construction should be included among the mitigation provisions. [Section 2.9.1](#) has further guidance on state-only projects.

Include the plans for mitigating project impacts in the HRCR.

2.7.8 Special Considerations under State Law

2.7.8.1 Late Discoveries

CEQA encourages agencies to make provision for archeological sites accidentally discovered during construction. Caltrans should include such provisions in the HRCR and in the mitigation section of the environmental document.

Standard provisions include:

- 1) Work in the area of the resource must stop immediately; and
- 2) An appropriately qualified cultural resources specialist must evaluate the discovery. If the resource is assessed as significant, Caltrans ensures that plans for mitigating project effects are immediately developed.

In the case of accidental discovery, the District Construction Branch notifies the District Environmental Branch staff. The District Environmental Branch PQS staff carries out the evaluation and determines appropriate mitigation, or requests the CSO to do so. Caltrans may consult with SHPO.

If construction cannot continue in the area of the significant resource until mitigation occurs, the DEBC or District HRC notifies the Construction Branch to this effect.

2.7.8.2 Emergency Procedures

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.

[PRC 5028](#) outlines procedures to follow when a resource listed in a national; state or local register of historic places is damaged during a natural disaster. *In declared emergencies, a structure cannot be demolished, destroyed, or significantly altered (except for restoring its historical value), unless the structure presents an imminent*

threat to the public or to adjacent property, or unless SHPO determines those actions may be taken.

SHPO's determination is based on relevant factors, including the historical significance of the structure, the extent of the damage, and the costs involved. SHPO also considers recommendations provided by a team of local historic preservation experts. SHPO's determination must be made within 30 days after the receipt of the application from any local government agency requesting the determination.

CEQA emergency exemptions apply to projects undertaken: 1) to prevent or mitigate an emergency; or 2) to address disaster-damaged or destroyed properties. But the emergency exemptions do not apply to projects that alter a significant historical resource unless the condition of the resource itself constitutes an emergency, as defined by [PRC 21060.3](#).

2.7.8.3 Emergency Procedures for State-owned Historical Resources

The Caltrans District PQS determines 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, as soon as possible, the Caltrans District notifies CSO, and/or SHPO, depending on whether the affected historical resource(s) are on the Master List.

State-owned Historical Resources not on the Master List

The Caltrans District notifies CSO of the emergency as soon as possible, preferably within three (3) calendar days. Notification shall include, to the extent such information is available: that Caltrans is notifying CSO under PRC 5024.5, description of the nature and extent of the historical resource(s) affected, assessment of NRHP and California Historical Landmark (CHL) eligibility of any cultural resource(s), the type and extent of any damage to the resource(s), what emergency actions were taken, and proposed permanent actions including any prudent and feasible treatment measures that would take any effects into account. The initial contact with CSO may be via telephone and e-mail, but follow-up consultation and documentation needs to be in written format.

Caltrans 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 days of the notification. 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.

State-owned Historical Resources on the Master List

The Caltrans District notifies CSO, SHPO of the emergency as soon as possible, preferably within three (3) calendar days. Notification shall include, to the extent such information is available: that Caltrans is requesting expedited consultation and concurrence under PRC 5024.5, description of the nature and extent of the historical resource(s), 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, and proposed permanent actions including any prudent and feasible treatment measures that would take any effects into account. The initial contact with CSO and SHPO may be via telephone and e-mail, but follow-up consultation and documentation needs to be in written format.

Caltrans 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 days of the notification. 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.

Post-Emergency Documentation

Within six months following the initiation of expedited consultation per [Section 2.7.8.2](#) above, the Caltrans District provides the SHPO, CSO, and any additional interested parties, a narrative report documenting the actions taken in accordance with this expedited consultation process.

2.7.8.4 Native American Burials

Native American burials in California are under the purview of the Native American Heritage Commission. [PRC 5097.98](#) governs the actions that Caltrans must take when burials are identified in a project area, or when they are accidentally discovered. Although the treatment of burials is exempt from CEQA, the CEQA Guidelines at [CCR 15064.5\(d\) and \(e\)](#) provide assistance in complying with the applicable statutes. [Chapter 3](#) discusses the requirements for treating Native American burials.

2.7.9 Timing with CEQA Environmental Documentation

The DRP should be completed prior to the circulation of a draft environmental document. However, in some cases test excavations and DRP preparation may require more time than is available before circulation of the draft environmental document. When a DRP cannot be completed prior to draft circulation, the plan must be completed by the time the final environmental document is certified.

2.7.10 Federal Compliance and Excess Property

NEPA does not apply when Caltrans disposes of its excess parcels. According to Caltrans Internal Guidance, "...absent any requirement for federal approvals, their disposal has no federal nexus that would trigger NEPA." *Therefore, if there is no federal undertaking, Section 106 compliance does not apply.* If any portion of the disposal activity triggers the need for federal approval, then the property transfer is a federal undertaking, and the HPSR format would be used (See [Exhibit 2.6](#)) instead of the HRCR. The same principles described below apply for both HRCRs and HPSRs.

2.7.11 State Compliance and Excess Property

Since 1991, the HRCR has been the vehicle by which Caltrans demonstrates compliance with state cultural resources laws and regulations. In 1991, the HRCR replaced the "Memo to File" for compliance on excess parcel disposals and route relinquishments. In order to complete the HRCR, in addition to knowing whether there are NRHP eligible/listed or CHL registered/listed resources on the parcel to be transferred or relinquished, one needs to know to whom the property will be transferred and whether there are known future plans for the property because this information directs how the HRCR is prepared. This also determines the level of protection, documentation and consultation that is needed to complete state cultural resources compliance.

CEQA and Excess Property

Most Caltrans excess land disposal and route relinquishment activities are not considered projects under CEQA, and CEQA would not apply. CEQA would apply in some situations. As outlined in the Internal Guidance, "...if there is a particular development plan associated with the parcel to be disposed, the action is considered a "project" and the normal CEQA process must be followed." When CEQA does apply to parcel transfers and route relinquishments, the project generally would be processed using a CEQA CE, as explained in the Caltrans Internal Guidance and in [Section V](#) of the SER Volume 1: Guidance for Compliance. There may be situations

(e.g., when the future known plans and actions might result in a substantial adverse change) when a CE is not the appropriate level of CEQA compliance. The Caltrans district PQS need to coordinate with the district staff preparing the CEQA documentation.

In situations where there is uncertainty as to whether CEQA applies, the district should talk to its Legal Department and to its headquarters Environmental Coordinator. See Caltrans' "Internal Guidance on Environmental Compliance for the Disposal of Excess Land," October 2007 (Internal Guidance) and Caltrans [Standard Environmental Reference](#) for detailed discussions on CEQA compliance. When CEQA does apply, the HRCR documents whether there are any cultural resources in the boundaries of the excess property or the route to be relinquished, whether or not cultural resources on the excess property are considered historical resources under CEQA, and the actions Caltrans takes in considering and protecting historical resources in disposing of the excess parcel disposal or relinquishing the route. The transmittal letter to the new owner(s) and the transfer documents must disclose whether there are historical resource(s) under CEQA on the property, and the measures to protect the historical resources that are conditions of the transfer. A copy of the HRCR needs to be attached to the transfer letter.

2.8 PRC 5024 Procedures for State-Owned Cultural Resources under the 5024 MOU

Introduction

When there are state-owned buildings, structures, objects, archaeological resources, sites, landscapes, or districts within the project or activity's area, Caltrans uses the HRCR to comply with PRC 5024. PRC [5024\(a\)](#) states that each state agency shall formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction. To meet this requirement, Caltrans must identify all state-owned buildings, structures, and archaeological sites within its right of way to determine whether they meet the criteria for inclusion in the NRHP or for registration as a CHL. In addition, when state-owned historical resources are on the Master List of Historical Resources (Master List), Caltrans must consult with SHPO.

The PRC 5024 procedures explained below follow the order laid out in PRC 5024(a) through (h) and PRC 5024.5, with changes as prescribed by the 5024 MOU. As with

the Section 106 process, the steps essentially are linear, although in practice they may overlap or be compressed.

The following terms are used in PRC 5024(a) through (h) and PRC 5024.5: historical resource (not historic property), adverse effect (not substantial adverse change), elimination or mitigation (not resolution) of adverse effects, and prudent and feasible alternatives.

For purposes of compliance with PRC 5024, the term *structure* means "an immovable work constructed by man having interrelated parts in a definite pattern of organization and used to shelter or promote a form of human activity and which constitutes an historical resource." [PRC 5024(h)] Examples of Caltrans-owned structures include but are not limited to buildings, bridges, roadways, substations, sheds, and retaining walls. [Stipulation IV](#) of the [5024 MOU](#) contains a list of other definitions.

Public Resources Code 5024 procedures under the 5024 MOU

Caltrans and SHPO signed and implemented a Memorandum of Understanding to set up procedures to comply with PRC 5024, as well as with the Governor's Executive Order W-26-92 (W-26-92). Called the "5024 MOU," this document became effective January 1, 2015 and is included as [Exhibit 1.2](#) to this volume of the SER. It was developed to mirror the stipulations and processes in the 106 PA as closely as possible. The 5024 MOU streamlines compliance with PRC 5024 and W-26-92 by delegating a number of SHPO's PRC 5024 responsibilities to the Caltrans districts and to CSO.

Designed primarily to streamline compliance related to projects and activities that affect state-owned cultural resources, the 5024 MOU also addresses Caltrans' property management and preservation planning responsibilities for its historical resources. In this capacity, the 5024 MOU differs from the 106 PA. It includes compliance with PRC 5024 and/or W-26-92 in planning for future evaluations of state-owned resources, developing historical resource management plans, maintenance activities that affect historical resources, as well as for transferring excess parcels or relinquishing routes.

In its structure, the stipulations in the 5024 MOU are set out in similar order, as are the six attachments, but the procedures for implementing the stipulations may differ.

5024 MOU Features and Streamlining Measures

Listed below are features and streamlining measures in the 5024 MOU that differ from the regular PRC 5024 compliance process to: delegate SHPO's responsibilities to Caltrans or to clarify how PRC 5024 is implemented.

- For purposes of carrying out the 5024 MOU, the terms “state-owned cultural resources” and “state-owned historical resources” means only those resources that are under Caltrans jurisdiction.
- When there are state-owned historical resources within the APE of a federal undertaking, compliance with PRC 5024 is concurrent with Section 106. Caltrans and SHPO use 106 PA and its documentation for the PRC 5024 compliance; see [5024 MOU Stipulation III](#).
- Projects and activities may be screened when they meet the criteria in [5024 MOU Stipulation VII](#) and [Attachment 2](#) (for historic bridges and tunnels see [Exhibit 7.3](#)); see [Section 2.8.1](#).
- The 5024 MOU provides for consultation with Indian tribes that may attach religious or cultural significance to state-owned cultural resources, and with other interested parties.
- State-owned cultural resources may be exempt from evaluation when they meet the criteria outlined in [5024 MOU Stipulation VIII.C.1](#) and [Attachment 4](#). The difference between the Section 106 PA and the 5024 MOU is that Resource Types 3 through 7 in Attachment 4 need to be recorded on an abbreviated DPR 523A Primary Record that is either included in or created by the Caltrans Cultural Resources Database (CCRD). This recordation is required for Caltrans property management purposes, such as planning for future surveys and survey updates. See [Chapter 4](#) section 4.4.1.2 and [Exhibit 4.4](#) for additional guidance.
- Buildings, structures and objects determined eligible for the NRHP or as a CHL will be placed on the Master List. All other eligible non-structural resources (e.g. archaeological sites, tree rows, landscapes, sites, etc.) will *not* be placed on the Master List. Whether or not a state-owned historical resource is on the Master List is key to how findings of effect are processed. See the [5024 MOU Stipulation IV.D](#) for a definition of the Master List.

- All NRHP listed or CHL registered state-owned historical resources, regardless of property type, are on the Master List. For instance, even though the Highway 152 Tree Row in Gilroy is not a structure, it is listed in the NRHP, so it is on the Master List.
- PRC 5024(f) applies to all findings of effect and proposed mitigation measures for state-owned Historical Resources that are not on the Master List.
- The CSO—not SHPO—reviews findings of effect for state-owned historical resources not on the Master List. The exception to this is when there is public concern or controversy.
- PRC 5024.5 applies to all findings of effect and proposed mitigation measures for state-owned historical resources that are on the Master List.
- Findings of No State-owned Historical Resources Affected will be documented in the District file as described in [Section 2.8.4](#) below and in [5024 MOU Stipulation IX.A](#).
- CSO reviews all Findings of No Adverse Effect with Standard Conditions (FNAE-SC) whether or not the state-owned historical resource is on the Master List. In addition to ESAs and use of the SOIS, [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#) include a standard condition that allows for the transfer or relinquishment of a state-owned historical resource that is designated and protected under an ordinance adopted by a Certified Local Government (CLG); see [Section 2.8.6.1](#) below.
- Findings of No Adverse Effect that do not have standard conditions are reviewed either by CSO or SHPO as follows (see [Section 2.8.6.2](#) and [5024 MOU Stipulation X.B.2](#)):
 - CSO reviews the FNAE for state-owned historical resources that are not on the Master List.
 - CSO reviews and forwards to SHPO for concurrence the FNAE for state-owned historical resources that are on the Master List.
- Findings of Adverse Effects with Standard Mitigation Measures (FNAE-SMM) may be used for adverse effects to state-owned archaeological sites if they meet the requirements of [5024 MOU Stipulation X.C.1](#) and [Attachment 6](#); see [Section 2.8.7.1](#). The findings are reviewed as follows:

- CSO reviews the FNAE-SC for NRHP/CHL eligible state-owned archaeological resources that are not on the Master List.
- CSO reviews and forwards to SHPO for concurrence the FNAE-SC for NRHP/CHL listed state-owned archaeological resources that are on the Master List.
- Findings of Adverse Effects (FAE) and proposed mitigation measures may be combined into HRCR per [5024 MOU Stipulation X.C.2](#); see [Section 2.8.7.2](#).
 - CSO reviews the FAE for NRHP/CHL-eligible state-owned historical resources that are not on the Master List.
 - CSO reviews and forwards to SHPO for concurrence the FAEs for NRHP/CHL listed state-owned historical resources that are on the Master List.
- For transfers and relinquishments of state-owned historical resources the findings of effect and the process for complying with PRC 5024 depend upon who will be the future owner:
 - A finding of No State-owned Historical Resources Affected applies to transfers and relinquishments of ineligible state-owned cultural resources (see [5024 MOU Stipulation XVI.A](#)) and to state-owned historical resources transferred or relinquished to other state or federal agencies (see [5024 MOU Stipulation XVI.B](#)).
 - An FNAE-SC applies to transfers and relinquishments of state-owned historical resources that are designated under a CLG preservation ordinance and are transferred to local agencies, private owners or when future owners are unknown (see [5024 MOU Stipulations X.B.1.c](#) and [XVI.C.1](#)).
 - A FNAE without standard conditions applies to state-owned historical resources that are designated under a preservation ordinance adopted by a local agency other than a CLG and are transferred to local agencies, private owners or when future owners are unknown. CSO reviews for historical resources not on the Master List; and SHPO reviews and concurs for historical resources on the Master List (see [5024 MOU Stipulations X.B.2](#) and [XVI.C.2](#).)
 - State-owned historical resources that are not designated under local preservation ordinances and are transferred to local agencies, private owners or when future owners are unknown may or may not be an adverse

effect, depending on whether and how the historical resources can be protected. See [5024 MOU Stipulations X.B.2, X.C](#) and [XVI.D](#) in Exhibit 1.2.

Similar to the 106 PA, the 5024 MOU requires that all actions under the 5024 MOU be carried out by or subject to the approval of Caltrans PQS ([Stipulation V](#)). It mirrors 106 PA in the methodology used for identification and evaluation of state-owned cultural resources ([Stipulation VIII](#)); phased approaches to identification, evaluation and assessment of effects ([Stipulation XI](#)); treatment of Native American remains and cultural items ([Stipulation XII](#)); Curation ([Stipulation XIII](#)); post-review discoveries ([Stipulation XIV](#)); emergency situations ([Stipulation XV](#)); documentation ([Stipulation XVII](#)); training requirements ([Stipulation XVIII](#)); exclusionary provisions ([Stipulation XIX.B](#)); and review and report ([Stipulation XIX.E](#)).

2.8.1 Screened Projects and Activities Exempt from Further Review

The [5024 MOU](#), in [Stipulation VII](#) and [Attachment 2](#), streamlines cultural resource compliance. Attachment 2 lists projects and activities that must be screened before being exempted from PRC 5024 review. [Exhibit 7.3](#) contains additional guidance for screening activities involving historic bridges and tunnels. As with all other actions under the 5024 MOU, a Caltrans PQS must conduct the screening process. Only the specific actions on the list qualify for screening, but a project or activity comprised of several actions on the list may be screened. Because the process is similar for screening federal undertakings, follow the guidance in [Section 2.3.2](#) Screened Undertakings for additional guidance on screening. However, the Screened Undertaking Memo would be either a “Screened Project Memo” or a “Screened Activity Memo.” [Exhibit 2.5](#) contains guidance for preparing a Screened Undertaking memo for the project planner; it also may be used for documenting screened projects and activities that involve state-owned cultural resources. See [5024 MOU Attachment 2](#) and [Chapter 4 Section 4.2.1](#) for further guidance.

2.8.2 Project Area Limits Delineation

The Project Area Limits (PAL) is defined as 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. See [5024 MOU Attachment 3](#): Project Area Limits Delineation for additional guidance on establishing PALs. In addition, please refer to [Section 2.3.3.1](#) Establishing APEs, as the process is similar. Consult the CSO BEPS Branch Chief if a question arises.

2.8.3 Identification and Evaluation of State-Owned Historical Resources

As with CEQA, compliance with PRC 5024 entails identification and evaluation of the state-owned cultural resources within the project area to determine whether the resources meet the NRHP criteria or [CHL criteria](#).

In order to comply with PRC 5024, Caltrans needs to use NRHP and CHL criteria to evaluate its state-owned resources to determine whether the resources meet the criteria for inclusion in NRHP or meet the criteria for registration as CHLs [PRC 5024(a) – (d)].

The process for identifying and evaluating state-owned historical resources is essentially the same under the 5024 MOU as it is under Section 106. Please refer to Section [2.3.3.3](#) above. However, for state-owned cultural resources that are exempt from evaluation pursuant to [5024 MOU Stipulation VIII.C.1](#) and [Attachment 4](#), there is an extra recordation step for Resource Types 3 through 7. Please refer to [Chapter 4](#), Section 4.4.1.2 and [Exhibit 4.4](#) for additional guidance.

2.8.3.1 Documenting Identification and Evaluation Results for State-owned Cultural Resources

Under the 5024 MOU, Caltrans districts must consult with SHPO and concurrently notify CSO on the results of its NRHP eligibility determinations for state-owned cultural resources. This is accomplished in the HRCR.

The HRCR may contain a number of other findings that document compliance with PRC 5024 requirements – findings that do not require separate or additional SHPO concurrence under the 5024 MOU:

- Delineation of the PAL.
- Summary of identification efforts: results of seeking and gathering information on historical resources including consultation with Indian tribes and other interested parties.
- Summary evaluation of state-owned cultural resources that were previously listed or determined eligible for the NRHP or for registration as a CHL, that were previously determined not eligible and whether these prior evaluations are still applicable, and that were determined eligible or ineligible for the NRHP or CHL as a result of the surveys attached to the HRCR, or that are assumed eligible for purposes of the project only.

- No State-owned Historical Resources Affected: there are no state-owned historical resources (NRHP/CHL listed or eligible) in the PAL (provided SHPO has concurred on eligibility).
- No State-owned Historical Resources Affected: there are state-owned historical resources in the HRCR but there will be no effects to them.

The SHPO or CSO may still comment on Caltrans identification efforts and PAL delineation, but will rarely do so when all guidance has been properly followed. An Archaeological Survey Report (ASR), Archaeological Evaluation Report (AER), and/or a Historical Resources Evaluation Report (HRER), as applicable, is attached to the HRCR to support the above findings. If there are questions on the appropriate level of effort or items not covered in the [SER Volume 2](#), consult the CSO. Caltrans districts do not need to notify SHPO or CSO of a No State-Owned Historical Resources Affected finding when the HRCR contains this finding and the HRCR is included in the district's files because this information will be captured in annual reporting as described in [Section 28.14](#). [Exhibit 2.14](#) contains more information on HRCRs.

2.8.3.2 Transmitting National Register/CHL Findings for State-owned Cultural Resources

The 5024 MOU allows Caltrans districts to submit all NRHP and CHL eligibility studies directly to SHPO with concurrent submittal to CSO. When a Caltrans District has been in consultation with an Indian tribe or interested parties on the NRHP and CHL eligibility of a resource concurrent with submittal to the SHPO, the Caltrans District shall notify and provide documentation to the Indian tribe or interested parties of Caltrans' eligibility conclusion, unless they have indicated they do not wish to receive such documentation.

As part of the Caltrans consultation with SHPO on eligibility and pursuant to [PRC 5024\(d\)](#), Caltrans requests that SHPO add the NRHP/CHL-eligible state-owned buildings and structures to the Master List.

SHPO 30-Day Review of Eligibility Finding

If the SHPO has not responded to Caltrans within 30 calendar days of receipt of the request for concurrence on eligibility, Caltrans may either extend the review period in consultation with the SHPO or proceed to the next step prescribed by 5024 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 provided 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 the 5024 MOU upon notification to the SHPO and CSO via e-mail or other written communication.

If Caltrans and SHPO agree on the determination of eligibility for a property, their joint finding constitutes a “consensus” determination of eligibility for purposes of 5024 MOU compliance.

Determinations of eligibility made under PRC 5024 do not automatically constitute a determination of eligibility under Section 106. Caltrans transmittal letters requesting SHPO concurrence on eligibility under PRC 5024 should include the following sentence:

In the event of federal involvement in this project or in another federal undertaking that includes in its APE the state-owned cultural resources evaluated for this project, then the lead agency for the federal undertaking will be required to consult with SHPO on their NRHP eligibility under 36 CFR 800.4, in order to comply with Section 106.

Disagreement on Eligibility

If SHPO disagrees with Caltrans’ eligibility conclusion, 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 the process prescribed by the 5024 MOU. If the disagreement is not resolved, the SHPO’s determination shall be final and binding.

2.8.4 No State-owned Historical Resources Affected

Once all the state-owned historical resources within the PAL have been identified, the Caltrans District must determine whether the project or activity will have an effect on those resources using the List of Adverse Effects outlined in [5024 MOU Stipulation IV.D](#). A finding of “No State-owned Historical Resources Affected” is appropriate

when the project or activity will have no effect on the state-owned historical resources.

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.

The No State-owned Historical Resources Affected applies when either

- The PAL does not contain any state-owned historical resources at all, or
- State-owned historical resources are present but the project or activity, transfer, relocation or demolition will not adversely alter the original or significant historical features or fabric of such resources.

It is important to consider certain factors in determining whether a finding of No State-owned Historical Resources Affected is appropriate. Please refer to [Section 2.3.8](#) under Factors to Consider for a list of what to consider.

2.8.4.1 No Notification Required

No notification is required when:

- 1) There are no state-owned cultural resources requiring evaluation in the PAL (i.e., no cultural resources present or all state-owned resources qualified as exempt under [5024 MOU Attachment 4](#)), or
- 2) All the state-owned cultural resources in the PAL were previously determined not eligible for the NRHP/CHL.

The Caltrans district PQS documents a “No State-owned Historical Resources Affected” finding by including the HRCR containing this finding in the district files. Checking the appropriate box on the HRCR form or adding a statement to that effect in a narrative HRCR will accomplish the documentation. It is not necessary to notify SHPO; see [Section 2.9.2.1](#) HRCR to District File for processing information. If this finding is appropriate, PRC 5024 compliance is concluded.

2.8.4.2 Notification Required - No State-owned Historical Resources Affected

When Caltrans has consulted with Indian tribes or any other interested parties on a determination of eligibility and finds that the project will result in

- 1) No State-owned Historical Resources Affected, either because all of the state-owned cultural resources in the PAL were determined by Caltrans to be not eligible for the NRHP or the CHL or
- 2) There are state-owned historical resources in the PAL but the project or activity will not have an effect on them.

Caltrans must provide the any Indian tribes or other interested parties with notification of that finding pursuant to [5024 MOU Stipulation IX.A.2](#), and make documentation available to them unless they have indicated that they do not wish to receive such documentation. Checking the appropriate box on the HRCR form or adding a statement to that effect in a narrative HRCR, and transmitting the HRCR as evidence of that finding will accomplish the notification; see [Section 2.9.2.1](#) HRCR to District File for processing information. If this finding is appropriate, PRC 5024 compliance is concluded.

If objections have been raised about the “No State-owned Historical Resources Affected” finding and they have not been resolved, the Caltrans district and CSO should apply the List of Adverse Effect and work towards resolving the objection.

2.8.5 Assessment of Effects to State-owned Historical Resources

The 5024 MOU requires the Caltrans district to determine whether the project or activity will have an effect on state-owned historical resources. If there will be an effect, the Caltrans district will make one of the following:

- Finding of No Adverse Effect (FNAE) either
 - with standard conditions (FNAE-SC), or
 - without standard conditions (FNAE),
- Finding of Adverse Effect with standard mitigation measures(FAE-SMM)
- Finding of Adverse Effect (FAE)

[Section 2.9](#) contains guidance on the process for documenting these findings and consulting with either CSO or SHPO.

2.8.6 Finding of No Adverse Effect

An FNAE is appropriate when:

- None of the project or activity’s anticipated effects constitute an adverse effect identified in the List of Adverse Effects,
- Non-standard conditions are imposed to avoid adverse effects,
- 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 [5024 MOU Stipulation XIV](#), or
- The appropriate “Standard Conditions” stipulated in [Attachment 5](#) of the 5024 MOU are imposed on the project or activity.

2.8.6.1 Finding of No Adverse Effect with Standard Conditions

Under the [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#), there are three standard conditions that will avoid adverse effects to state-owned historical resources whether or not they are on the Master List:

- 1) Protection of archaeological sites or built environment state-owned historical resources by designation of an Environmentally Sensitive Area (ESA); or
- 2) When the project or activity consists of maintenance, repairs, rehabilitation or alterations to state-owned historical resources and the work can be completed according to *Secretary of the Interior’s Standards for Treatment of Historic Properties (SOIS)*. For this standard condition, Caltrans uses the 1995 version by Weeks and Grimmer as prescribed by PRC 15064.5(b)(3) and the [5024 MOU Stipulation X.B.1.b](#).
- 3) When Caltrans transfers or relinquishes a state-owned historical resource that has been designated under a Certified Local Government under its preservation ordinance (CLG Designation)—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 one of these standard conditions is imposed on a project or activity, the formal finding to conclude PRC 5024 would be a “Finding of No Adverse Effect with Standard Conditions” (FNAE-SC). The Caltrans District submits the FNAE-SC to CSO and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has expressed views regarding potential effects to state-owned historical resources. Under the 5024 MOU, upon receipt of the FNAE-SC, CSO has 15 days to object to the FNAE-SC. If within this time frame CSO does not object,

compliance under 5024 is complete. See [Section 2.9.2.3](#) HRCR to CSO for processing information.

The SHPO does not review these findings, but CSO will provide summary notifications of these findings to SHPO on a quarterly basis, as outlined in [5024 MOU Stipulation XIX.E.2](#).

The FNAE-SC and supporting documentation—whether for ESAs, SOISs or Transfers of CLG-Designated Resources—must be complete when the Caltrans district submits the proposed finding to CSO. The 15-day review period will not begin until CSO is in receipt of complete documentation. See [Exhibit 2.8](#) for more information.

Environmentally Sensitive Areas (ESAs)

While primarily used for archaeological sites, the first standard condition also may be used to protect built environment state-owned historical resources. See [5024 MOU Attachment 5](#) for additional details.

Use of Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS)

The second standard condition is used primarily for built environment state-owned historical resources such as buildings and structures when adverse effects are avoided through maintenance, repairs, rehabilitation or alterations. See [5024 MOU Attachment 5](#) for additional details.

Transfer of CLG-Designated State-owned Historical Resources

The third standard condition is used for the transfer or relinquishment of a state-owned historical resource to a local agency or private owner when a state-owned resource has been designated by a CLG under its ordinance.⁶ This 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:

- 1) 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.
- 2) Proposals to transfer or relinquish state-owned archaeological historical resources designated by a CLG may be used only when reviewed and approved by a Princi-

⁶ This may be either an individual designation, or designation as a contributing element of a district under by CLG under its ordinance.

pal Investigator in Prehistoric or Historical Archaeology. However, this situation is rare.

- 3) The Caltrans District may initiate the nomination of a state-owned historical resource under a CLG's preservation ordinance. 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; see [5024 MOU Attachment 5](#) for details.

2.8.6.2 No Adverse Effect without Standard Conditions

The Caltrans district may propose an FNAE that does not employ any of the three above standard conditions. This is called a "Finding of No Adverse Effect" (FNAE). As outlined in the [5024 MOU Stipulation X.B.2](#). Under this stipulation there are two separate processes for

- State-owned historical resources *not* on the Master List, and
- State-owned historical resources *on* the Master List.

FNAE for State-owned Historical Resources not on Master List

When the Caltrans District proposes a finding of No Adverse Effect (FNAE) other than an FNAE-SC discussed above, the Caltrans District submits the HRCR containing its proposed finding and supporting documentation to CSO for review and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has 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, PRC 5024 compliance for the project or activity is complete. CSO provides provide summary notification to the SHPO of these findings in accordance with the [5024 MOU Stipulation XIX.E.2](#).

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 stands and Caltrans proceeds to the next step in accordance with the requirements in the 5024 MOU. If the disagreement is not resolved, the finding is considered adverse and the Caltrans District follows the process for findings of adverse effect; see [Section 2.8.7.2](#) below and [5024 MOU Stipulation X.C](#).

FNAE for State-owned Historical Resources on Master List

For state-owned historical resources on the Master List, when the Caltrans District proposes a FNAE other than an FNAE-SC discussed above, the Caltrans District submits the HRCR containing its proposed finding and supporting documentation to CSO for review and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has 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, CSO consults with the SHPO pursuant to PRC 5024.5.

If within 30-calendar days of receipt, SHPO does not object to the “No Adverse Effect” finding, 5024 compliance for the project or activity is complete. CSO and the SHPO, however, 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 5024 compliance for the project or activity is complete. Disagreements or objections to a finding of “No Adverse Effect” will be addressed in accordance with [5024 MOU Stipulation X.F.](#)

Re-assessment of Effects

If a project or activity will not be implemented as proposed in relation to any state-owned historical resource, Caltrans must re-open consultation as prescribed in [5024 MOU Stipulation X.](#)

2.8.7 Finding of Adverse Effect and Proposed Mitigation Measures

When adverse effects to state-owned historical resources cannot be avoided, the Caltrans District may propose a finding of “Adverse Effect” (FAE).

2.8.7.1 Finding of Adverse Effect with Standard Mitigation Measures (FAE-SMM)

The Adverse Effect with Standard Mitigation Measures” (FAE-SMM) may only be used for 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 state-owned archaeological sites that are not on the Master List cannot be avoided, the Caltrans District proposes an FAE-SMM. This finding may be used:

- When the appropriate SMMs described in [5024 MOU Attachment 6](#) 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 [5024 MOU 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.

When the Caltrans District proposes a FAE-SMM, the Caltrans District submits the HRCR containing its proposed finding and supporting documentation to CSO for review and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has expressed views regarding potential effects to state-owned historical resources. If within 30 calendar days of receipt CSO does not object to the proposed FAE-SMM, PRC 5024 compliance for the project or activity is complete. CSO notifies the SHPO of these findings in the Annual Report in accordance with the [5024 MOU Stipulation XIX.E.1](#).

2.8.7.2 Finding of Adverse Effect

When adverse effects to a state-owned historical resource cannot be avoided or do not qualify as an FNAE-SMM, the Caltrans District proposes a finding of “Adverse Effect” (FAE) and submits to CSO an HRCR containing the FAE and documentation supporting the proposed finding. Proposed mitigation measures may be combined with the FAE in the same document. How it gets reviewed depends on whether the state-owned historical resource is on the Master List.

FAE for State-owned Historical Resources not on Master List

When the Caltrans District proposes a finding of Adverse Effect (FAE) other than an FAE-SMM discussed above, the Caltrans District submits the HRCR containing its proposed finding and supporting documentation to CSO for review and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has expressed views regarding potential effects to state-owned historical resources. If within 30 days of receipt CSO does not object to the proposed FAE, PRC

5024 compliance for the project or activity is complete. CSO provides provide summary notification to the SHPO of these findings in accordance with the [5024 MOU Stipulation XIX.E.2](#).

If the CSO has not responded to the District within 30 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 PRC 5024 compliance for the project or activity is complete.

FAE for State-owned Historical Resources on Master List

When the Caltrans District proposes a finding of Adverse Effect (FAE), the Caltrans District submits the HRCR containing its proposed finding and supporting documentation to CSO for review. Upon CSO's agreement with the finding, CSO forwards the FAE and supporting documentation to the SHPO, and the Caltrans District provides notice of the finding to Indian tribes or other interested parties, as appropriate. The Caltrans District and CSO work together on the mitigation of adverse effects.

The SHPO has 30 days to review the FAE. If the SHPO has not responded to Caltrans within 30 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 PRC 5024 compliance for the project or activity is complete.

2.8.7.3 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—whether or not they are on the Master List—CSO forwards the finding of no adverse effect or adverse effect with proposed mitigation to SHPO with an explanation regarding the nature of the public interest or controversy:

- Under PRC 5024(f), CSO notifies SHPO and requests comments for historical resources that are not on the Master List and
- Under PRC 5024.5, CSO notifies SHPO and requests concurrence for historical resources that are on the Master List

The SHPO has 30 days to review the finding. If the SHPO has not responded to Caltrans within 30 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 PRC 50234 compliance for the project or activity is complete.

2.8.7.4 Concurrent Documentation and Consultation

Determinations of eligibility, assessments 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, findings of effect and proposed mitigation measures are sequential; these review times are outlined in [5024 MOU Stipulation VIII.C.6](#), [X.B.2](#) and [X.C](#).

2.8.7.5 Resolving Disagreements on Findings of Effect

When there are disagreements on the findings of effect outlined in [Sections 2.8.6](#), or [2.8.7](#) above Caltrans shall proceed in accordance with Stipulation X.F and consult with SHPO for no more than 30 days to resolve the disagreement, as prescribed in this stipulation. However, for state-owned historical resources not on the Master List, SHPO's comments are advisory.

For state-owned resources on the Master List, if at any time during this consultation period, SHPO determines that the disagreement cannot be resolved through consultation, the SHPO, pursuant to PRC 5024.5(d) shall request the Office of Planning and Research (OPR) to mediate the disagreement. OPR's decision is final and binding.

2.8.8 Mitigation of Adverse Effect Commitments

Unlike compliance with Section 106 or the Section 106 PA, there is no agreement that is the equivalent of an MOA. Regardless of whether historical resources are on the Master List, when consultation under 5024 MOU has resulted in agreement on

methods of protection or mitigation measures, Caltrans must document those methods or measures in the Environmental Commitments Record. The Caltrans district is responsible for ensuring that the measures are carried out.

Documentation in the ECR serves three important functions in the PRC 5024 process:

- It completes the process for a project or activity for which an adverse effect will occur.
- It specifies the measures that will be implemented to mitigate, avoid, or reduce adverse effects on state-owned historical resources.
- It establishes responsibility for implementing each of the measures.

2.8.9 Special Considerations for State-owned Historical Resources

2.8.9.1 Emergency Situations

Pursuant to 5024 MOU Stipulation 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. The procedures outlined here apply only to emergency situations apply in which the project and activity will be implemented within 30 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 regular procedures as outlined in this volume of the SER and in the [5024 MOU 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.

Caltrans follows the procedures as described in [Section 2.7.8.3](#).

2.8.9.2 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 follows 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.

See [Chapter 3](#) Section 3.6 and 3.7 for additional guidance.

2.8.9.3 Curation

The Caltrans District ensures 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). The Caltrans District addresses the disposition of Native American human remains and associated items during consultation with the most likely descendent(s) designated by California's NAHC as outlined in 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.

2.8.9.4 Late Discoveries and State-owned Cultural Resources

Planning for Subsequent Discoveries

Pursuant to the 5024 MOU, when Caltrans' identification efforts indicate that state-owned historical resources are likely to be discovered during implementation of a project or activity, in the finding of FNAE or HRCR, and in the ECR, the Caltrans District includes a plan for treatment of those historical resources, should they be discovered; see [Chapters 5](#) and [6](#) for additional information. The Caltrans District notifies 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 takes 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.

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 promptly stops construction activity in the vicinity of the property and implements all reasonable measures needed to avoid, minimize, or mitigate further harm to the resource.

- 2) Within 48 hours of the discovery, the Caltrans District must assess the discovery and, if determined to be potentially eligible, provide initial notification to CSO and 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. Along with a request for comment, include in the notification, to the extent such information is available:
- A description of the nature and extent of the cultural resource(s)
 - An assessment of NRHP and CHL eligibility of any resources
 - 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

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. The Caltrans District may assume eligibility, for purposes of the project or activity, of any potentially affected cultural resource(s); see [5024 MOU Stipulation VIII.C.3 and 4](#) regarding state-owned cultural resources that are assumed to be NRHP/CHL eligible for purposes of the project or activity only.

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 takes into account their comments or continues consultation with any commenting parties. The Caltrans District: provides any remaining information described above, as it becomes available; determines the time frame for any further consultation, and take into account the qualities of the property, consequences of construction delays, and comments by interested parties. Following the conclusion of any further consultation, the Caltrans District takes 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 its proposed actions.

2.8.10 Excess Parcel and Route Relinquishments

Caltrans must comply with PRC 5024 whenever it transfers state-owned parcels⁷ out of its ownership or relinquishes a state route.

Prior to transferring or relinquishing state-owned property, Caltrans needs to know whether there are any historical resources on that property. If there are state-owned cultural resources that were not previously exempted from evaluation, exempted from evaluation as result of the transfer or relinquishment activity, or were not previously evaluated and determined eligible or not eligible, Caltrans must consult with SHPO on whether the evaluated state-owned resources are eligible for inclusion in the NRHP or for registration as a CHL.

PRC 5024(b) is even more specific about state-owned structures in freeway rights-of-way, “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.” And, PRC 5024.5(f) states, “Until such time as a structure is evaluated for possible inclusion in the inventory pursuant to subdivisions (b) and (c) of Section 5024, state agencies shall assure that any structure which might qualify for listing is *not inadvertently transferred* or unnecessarily altered.” [Emphasis added]

The level of effort to identify state-owned historical resources and what is needed to transfer them can vary, depending on whether the future owner is a federal agency, another state agency, a local agency or a private owner. [Exhibit 2.19](#) provides information on the level of effort and protection that is needed.

The [5024 MOU](#), in [Stipulation XVI](#), addresses what is required in order to transfer or relinquish state-owned historical resources, and provides streamlining measures transferring or relinquishing state-owned historical resources to federal agencies, other state agencies, and when transferring state-owned historical resources that have been designated under a CLG preservation ordinance. However, when future owners are unknown or when state-owned historical resource are not designated under a CLG preservation ordinance, the procedure for complying with PRC 5024 is more rigorous in order to protect against adverse effects. This requires review and approval, either by CSO for state-owned historical resources not on the Master List, or SHPO for those resources that are on the Master List, and will require other protective measures

⁷ Examples of transferring title to real property include excess parcel sale, donation, trade, or relinquishment. See Right-of-Way Manual [Section 16.05.02.00](#).

such as conservation easements, local agency protective resolutions or protective covenants. [Chapter 7](#) contains more detailed information on these other measures.

When all efforts to transfer or relinquish state-owned historical resources with protections have been exhausted, the Caltrans District treats the transfer as an adverse effect under PRC 5024, and follows the procedures outlined in [Sections 2.8.7](#) and [2.8.8](#), and as prescribed by [5024 MOU Stipulation X.C.](#)

If the transfer or relinquishment of a state-owned historical resource is not implemented as proposed, the Caltrans District concurrently notifies CSO and SHPO and Caltrans will re-open consultation with SHPO as prescribed by [5024 MOU Stipulation X.](#)

2.8.10.1 No State-owned Historical Resources Affected by Transfer/Relinquishment

Under [5024 MOU Stipulation XVI.A.](#), a No State-owned Historical Resources Affected finding is appropriate 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):

- 1) Absence of any cultural resources
- 2) State-owned cultural resources that are exempt from evaluation pursuant to [5024 MOU Stipulation VIII.C.1](#) and [Attachment 4](#)
- 3) State-owned cultural resources that were previously determined not eligible for listing in the NRHP or for registration as a CHL

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. The Caltrans District retains the HRCR in its file, and provides 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.

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

Under [5024 MOU Stipulation XVI.B.](#), A No State-owned Historical Resources Affected finding also is appropriate when state-owned historical resources will be

transferred to federal agencies or to other state agencies. The HRCR must 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 retains the HRCR in its file and provides a copy to CSO. See [Exhibit 2.17](#) for additional information.

2.8.10.2 No Adverse Effect with Standard Conditions: Transfer of CLG-designated State-owned Historical Resources

An FNAE-SC-CLG for the proposed transfer or relinquishment of a CLG-designated state-owned historical resource is appropriate when the standard condition set forth in [5024 MOU Attachment 5 Section 3](#) (Transfers of Locally Designated State-owned Historical Resources CLG Designation) has been met, as prescribed by the [5024 MOU Stipulations IX.B.1.c](#), and [XVI.C](#).

This finding applies to:

- 1) Individual CLG designation or designation as a contributing element of a CLG-designated historic district;
- 2) CLG-designated state-owned historical resources not on the Master List;
- 3) CLG-designated state-owned historical resources on the Master List;
- 4) Transfers to the CLG that designated the historical resource, to other non-federal or non-state public agencies, private owners or when the future owner is unknown.

The HRCR must 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 CLG, and a copy of the applicable city or county resolution that officially designated the historical resource. The Caltrans District submits the HRCR containing the FNAE-SC-CLG and supporting documentation to CSO for review, and concurrently provides 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 days of receipt CSO does not object to the proposed FNAE-SC finding, the PRC 5024 compliance is complete.

2.8.10.3 No Adverse Effect: Transfer of State-owned Historical Resources

An FNAE finding for the transfer or relinquishment of a state-owned historical resource may be appropriate when a non-CLG local agency has been either individually designated that resource under its preservation ordinance or designated as a contributing element of a locally-designated historic district.

The HRCR must 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 local agency, a copy of the preservation ordinance, and a copy of the applicable city or county resolution that officially designated the historical resource. Refer to [Exhibit 2.17](#) and [Chapter 7](#) Section 7.12.7 for additional guidance on this type of mitigation option.

State-owned Historical Resources not on Master List

The Caltrans District submits the HRCR containing the FNAE and supporting documentation to CSO for review, and concurrently provides 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 days of receipt CSO does not object to the proposed FNAE finding, the PRC 5024 compliance is complete.

State-owned Historical Resources on Master List

For state-owned historical resources on the Master List, when the Caltrans District proposes a FNAE and submits the HRCR containing its proposed finding and supporting documentation to CSO for review and concurrently provides notification of the proposed finding to any Indian tribe or interested party that has expressed views regarding potential effects to state-owned historical resources. If within 15 days of receipt CSO does not object to the proposed FNAE, CSO consults with the SHPO pursuant to PRC 5024.5.

If within 30-calendar days of receipt, SHPO does not object to the FNAE, PRC 5024 compliance for the project or activity is complete. CSO and the SHPO, however, 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 5024 compliance for the project or activity is complete. Disagreements or objections to a finding of “No Adverse Effect” will be addressed in accordance with [5024 MOU Stipulation X.F.](#)

2.8.10.4 Finding of Effect: Transfer of State-owned Historical Resources

When state-owned historical resources that are not locally designated, as described in [Sections 2.8.10.2](#) or [2.8.10.3](#) above and [5024 MOU Stipulation XVI.C.1 and 2](#), are transferred or relinquished to non-federal or non-state public agencies, private owners, or when the future owner(s) is not yet identified, the Caltrans District, with CSO’s assistance as appropriate, shall explore appropriate measures to protect the historical resource.

State-owned Historical Resources not on Master List

Finding of No Adverse Effect: The Caltrans District submits the HRCR containing the FNAE and supporting documentation to CSO for review as outlined in [Section 2.8.6.2](#) FNAE for State-owned Historical Resources not on Master List.

Finding of Adverse Effect: The Caltrans District submits the HRCR containing the FAE and supporting documentation to CSO for review and forwarding to SHPO as outlined in [Section 2.8.7.2](#) FAE for State-owned Historical Resources not on Master List.

State-owned Historical Resources on Master List

Finding of No Adverse Effect: The Caltrans District submits the HRCR containing the FNAE and supporting documentation to CSO for review as outlined in [Section 2.8.6.2](#) FNAE for State-owned Historical Resources on Master List.

Finding of Adverse Effect: The Caltrans District submits the HRCR containing the FAE and supporting documentation to CSO for review and forwarding to SHPO as outlined in [Section 2.8.7.2](#) FAE for State-owned Historical Resources on Master List.

2.8.10.5 Post Transfer – Completing PRC 5024 Compliance

Once the historical resource has been transferred and the protections are in place (e.g., protective covenants/easements filed with the County Recorder, approved city or

county preservation resolutions; signed and accepted relinquishment or other preservation agreements), Caltrans district PQS forwards copies of the finalized protection documents to SHPO, with a copy to the CSO BEPS Branch Chief. Along with the documents, Caltrans provides SHPO with an abbreviated DPR 523A Primary Record form, completing the following sections: resource name, locational information, showing the ownership change, the name of the new owner, and the updated Status Code (change the status from “4CM” to the underlying eligibility code). For properties transferred to federal or state agencies, the abbreviated DPR 523A Primary Record form, as described above, CSO will submit the abbreviated DPR 523A Primary Record form and summary notification to SHPO as outlined in [5024 MOU Stipulation XIX.E.1](#).

The SHPO transmittal letter, with a copy to the BEPS Branch Chief, should include the following:

- Subject line: Notification of Sold Parcels/Relinquished Route, PRC 5024 Compliance.
- Brief background description of prior SHPO consultation on the transfer/relinquishment and effect finding, including date of SHPO’s comments and/or concurrence.
- A request that SHPO change the ownership status and Historical Resource Status Code. In this example, historic district contributors were sold to private owners: *The National Register-eligible historic properties have been sold. Enclosed with this letter are copies of the fully executed and recorded covenants, along with updated Primary Records (DPR 523A forms) that reflect the change in ownership from state to private. We request that you change their California Historical Resources Status Code from 4CM to 2D.*

2.8.11 PRC 5027 and National Register Listed Buildings and Structures

[PRC 5027](#), requires statutory approval by the Legislature prior to the demolition, destruction or significant alteration (except for restoration to preserve or enhance its historical values) of any state-owned building or structure that is listed in the NRHP and that is transferred from state ownership to another public agency. This law does not apply to archaeological sites, landscapes or other non-structural property types. Very few Caltrans-owned historic buildings or structures are actually listed in the NRHP; most are determined eligible either by the Keeper of the National Register or through federal agency and SHPO consensus.

While PRC 5027 does not require consultation with SHPO, compliance with PRC 5024.5 and [5024 MOU Stipulation XVI.G](#) for the transfer will be necessary prior to the legislative approval. Given this stepped process, it is critical to build sufficient time into the schedule. The key points to remember are

- The law applies only to NRHP *listed* buildings or structures
- There is a *substantial adverse change*/adverse effect through demolition, destruction or significant alteration
- Transfer is to another *public agency*

2.8.12 Use of HRCR to Document PRC 5024 Compliance

Use the HRCR to summarize efforts to identify state-owned historic resources, to provide descriptions of the evaluated state-owned historic resources, and to describe potential effects to the state-owned historical resources as described in this section of the chapter.

[Section 2.9](#) of this chapter provides guidance in completing the HRCR when state-owned cultural resources are within a project or activity's PAL. Be sure to include in the HRCR proposed measures that are prudent and feasible and that would avoid or mitigate adverse effects to the state-owned historical resources. In addition, for state-owned historical buildings and structures, the HRCR needs to provide evidence that Caltrans has consulted with the [State Historical Building Safety Board](#), as appropriate.

2.8.13 Timing of CSO and SHPO Review and Comment

Caltrans uses the HRCR as a combined evaluation and effect document when notifying and providing documentation under the 5024 MOU. For situations in which the proposed actions are not yet known, or will be phased, the HRCR may be used to request SHPO's comments first on whether a state-owned resource meets the NRHP or CHL criteria and, for historic state-owned buildings and structures requesting SHPO to add them to the Master List. Later, when activities or actions are known, a Supplemental HRCR may be used to provide notice and summary documentation, as outlined in the 5024 MOU, on effects to state-owned historical resources in the PAL. For example, when planning for future maintenance, repairs, or rehabilitation of a Caltrans building or structure, it may be necessary first to identify whether the resource is historic in order to guide the type and scope of future repairs, maintenance, or rehabilitation.

The District Environmental Branch maintains SHPO's written comments in its files, and forwards a copy of the comments to the CSO BEPS Branch Chief for filing.

If Caltrans "refuses to propose, to consider, or to adopt prudent and feasible alternatives to eliminate or mitigate adverse effects on state-owned historical resources on the master list," SHPO is required by law to report Caltrans to the Office of Planning and Research for mediation, pursuant to [PRC 5024.5\(d\)](#).

2.8.14. Annual Reporting under PRC 5024

The 5024 MOU requires that Caltrans submit a report to SHPO on activities conducted under the terms of the MOU. The report will be submitted annually. It is due three months after the end of the state's fiscal year (that is, September 30). The purpose of the report is to ensure the 5024 MOU is being properly implemented, to see if it is improving efficiency in delivering state projects and activities, and to see whether there are ways the 5024 MOU may be improved through amendment.

The CSO Chief is responsible for compiling the information contained in the report, but in practice the CSO BEPS Branch Chief will work with district staff in the compilation effort. At the end of the fiscal year, each DEBC, or District HRC as so directed, will provide the appropriate information to the CSO BEPS Branch Chief. The CSO BEPS Branch Chief will collate the information into one document that meets the 5024 MOU requirements. The CSO will oversee distribution of the report and keep copies on hand for public inspection.

2.9 State-Only Documents: Historical Resources Compliance Report (HRCR)

Caltrans prepares a single document, the Historical Resources Compliance Report (HRCR), to document Caltrans' historical resources consideration and compliance efforts under California law, including requirements under CEQA and PRC 5024. The HRCR contains Caltrans's the technical studies for CEQA environmental documentation and contains the legal findings under the [5024 MOU](#) and PRC 5024. It is similar in content and format to the HPSR in that it documents: efforts to identify historical resources; evaluation of cultural resources for CRHR eligibility, and for PRC 5024, evaluation of state-owned cultural resources for the NRHP and CHL eligibility; impact findings under CEQA, and under the 5024 MOU, findings of effect.

An HRCR form may be used for project or activities with few cultural resources or simple projects or activities that require little discussion. For large, complex or controversial projects or projects with a large number of cultural resources, use the narrative text HRCR. [Exhibit 2.14](#) provides an outline of the format and instructions for preparing HRCRs.

2.9.1 HRCR Functions

The HRCR serves a number of functions, in addition to being the cover document for the technical reports. The HRCR:

- Summarizes the identification efforts, which includes documenting the PAL.
- Summarizes the CRHR (and for state-owned resources the NRHP/CHL) eligibility conclusions for cultural resources described and evaluated in the attached reports and indicates that these supporting documents contain full technical details.
- Provides evidence of coordination with local Native American groups, local governments, historical societies, and other interested persons.
- Requests SHPO's comments and concurrence on the NRHP/CHL eligibility determinations for state-owned cultural resources contained in the HRCR.
- Analyzes and documents the impact findings to historical resources, e.g. a finding of No Historical Resources Affected when there are no historical resources within the PAL or there is no effect on historical resources; a finding of No Substantial Adverse Change; or a finding of Substantial Adverse Change.
- Analyzes and documents a finding of No Substantial Adverse Change when using standard conditions in the [Section 106 PA/5024 MOU Attachment 5](#) (when an ESA is imposed, Caltrans requires the use of the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, Weeks and Grimmer's 1995 version, for alterations, maintenance, repairs or rehabilitation; or transfers state-owned historical resources). As required by the 5024 MOU, analyzes and documents the findings to state-owned historical resources, e.g. findings of No State-owned Historical Resources Affected, No Adverse Effect with Standard Conditions, No Adverse Effect, Adverse Effect with Standard Mitigation Measures; or Adverse Effect.
- Provides evidence that Caltrans has satisfied state environmental laws regarding the identification of cultural resources.

Because the HRCR can address multiple issues in a single document, it can consolidate and reduce the number of documents needed for review, and can thus help reduce overall preparation, transmittal, and review time.

Like HPSRs, HRCRs can vary greatly in length and complexity because the studies necessary to identify cultural resources will also vary, depending on the project or activity and the types of resources within the PAL. See Exhibit 2.3 for a rough estimate of the length of time needed to complete the variety of cultural resources studies that might be necessary.

The body of the report should be *very brief* when summarizing attached technical reports and the content should be carefully constructed to ensure that it adequately serves necessary functions while limiting redundancies and simplifying the review process. For example, if voluminous sets of identical maps accompany each attached technical report, duplicates can be removed before submittal to CSO or SHPO, as applicable.

For large or complex projects or those with a large number of cultural resources, the narrative HPSR is used and tabs may be used to guide reviewers to the various sections or attachments. The HPSR form is used only for simple, straight-forward projects, and use of the form is optional.

[Exhibit 2.14](#) provides instructions for preparing HRCRs. Templates for both the narrative HRCR and the HRCR form are available in the templates section of the Caltrans [SER volume 2](#)-Cultural Resources website.

2.9.1.1 HRCR Contents

The HRCR discusses all aspects of historical resources compliance: resource identification, significance, effect, and mitigation. District PQS typically prepare the HRCR. See [Exhibit 2.14](#) for format and content. Attach copies of all historical resources technical reports to the HRCR.

After a brief project description and summary of findings, describe all cultural resources identified within the Project Area, and refer to attached individual cultural resources reports. Next, assess the significance of each resource, providing adequate information to understand any importance, without excessive detail. Identify any state-owned resources that are subject to PRC 5024.

When a resource, such as an archaeological site, is important for the information it contains, present a concise statement on the research issues that could be addressed by studying the resource, and describe how the data it contains can address these issues.

The HRCR effect statement describes how the project would physically affect historical resources. Include any indirect effects, such as increased noise or introduction of elements out of character with a resource that could affect the resource's significance.

Finally, discuss mitigation efforts to be undertaken to offset project effects. The report should indicate whether the proposed mitigation would reduce project impacts below a level of significance. Note that preservation in place is the preferred option.

If the only activity under consideration is maintenance, repair, stabilization, rehabilitation, restoration, or preservation of a historical resource, and the work is done according to the SOIS, for cultural resources purposes, the project is considered to be mitigated to a level of less than significant impact to the historical resource.

When proposing data recovery as mitigation, summarize the DRP in the HRCR. Archaeological proposals for data recovery or test excavations are prepared as separate documents. The data recovery proposal fulfills the CEQA requirement for a DRP. District PQS typically write the DRP.

2.9.2 HRCR Types of Findings

There are three types of findings, depending upon the presence and type of cultural resources within the PAL. The "HRCR to District File" is fairly straightforward and simple and is used in the situations outlined below. The "HRCR to SHPO" is used to report the existence of cultural resources that required evaluation beyond identification, as described in the subsequent section. For state-owned historical resources on the Master List, a Supplemental HRCR may be used to request SHPO's concurrence on a Finding of No Adverse Effect other than use of the Standard Conditions, and a Finding of Adverse Effect. When state-owned historical resources are within the PAL, the "HRCR to CSO" is used to document a Finding of No Adverse Effects with Standard Conditions as outlined in [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#), and for state-owned historical resources not on the Master List to document a Finding of No Adverse Effect when standard conditions are not used, and a Finding of Adverse Effect; see [Sections 2.8.6.1](#) (FNAEs with Standard Conditions), [2.8.6.2](#) (FNAEs), [2.8.7.1](#) (FAE with Standard Mitigation Measures and [2.8.7.2](#) (FAEs).

Caltrans PQS or consultants prepare the HRCR and supporting technical reports. For "HRCR to File," the Caltrans district places the HRCR and supporting documentation in the district files. For "HRCR to SHPO," that is, resources are evaluated whether or not they are determined eligible, the Caltrans district concurrently transmits the

“HRCR to SHPO” and supporting documentation to SHPO and provides a copy to CSO. For Findings of No Adverse Effect or Adverse Effect to state-owned historical resources on the Master List, the Caltrans district transmits the “HRCR to SHPO” to CSO for review and CSO forwards the documentation to SHPO. Caltrans’s letter transmitting the HRCR requests SHPO’s comments on the determinations of eligibility findings for any evaluated cultural resources in the PAL; . For “HRCR to CSO,” for FNAE-SCs, Findings of No Adverse Effect or Adverse Effect to state-owned historical resources that are not on the Master List, the Caltrans district transmits the HRCR and supporting documentation to CSO.

2.9.2.1 HRCR to District File

The list below contains findings that are appropriate for the “HRCR to District file” section of the HRCR and that certifies that no historical resources are located within the PAL and/or that the project or activity will have no effect to historical resources within the PAL.

Appropriate Uses of HRCR “Finding – HRCR to District File”

This Finding may be used when there are:

- *No cultural resources* at all within the PAL
- Archaeological sites, buildings, structures, and other non-archaeological resources within the PAL, but *only*:
 - Resources meeting the criteria for Properties Exempt from Evaluation in [106 PA/5024 MOU Attachment 4](#).
 - Resources previously determined not eligible for the NRHP, CRHR (and for state-owned cultural resources not eligible for the CHL) and that determination remains valid.
- Bridges in the PAL that are listed as Category 5 in the Caltrans Historic Highway Bridge Inventory and subsequent updates.
- Properties within the PAL were previously determined eligible for the NRHP, CRHR (or CHL for state-owned historical resources), and those determinations remain valid, but the historical resources will not be affected by the project or activity.
- Caltrans has determined that state-owned archaeological sites within the PAL are considered eligible for the NRHP/CHL for the purposes of this project or activity

only, per [5024 MOU Stipulation VIII.C.3](#), and will be protected from potential effects by using ESAs.

- Caltrans has determined that the state-owned resources within the APE are considered eligible for the NRHP/CHL for the purposes of this project or activity only because evaluation was not possible and CSO has approved this finding, per [5024 MOU Stipulation VIII.C.4](#).
- Caltrans has determined “no impact to historical resources” is an appropriate conclusion because Caltrans determined that all of the resources in the PAL are not CRHR eligible or for state-owned resources not NRHP/CHL eligible *and* prior SHPO Section 106 or PRC 5024 consultation is documented.
- Caltrans has determined “no impact to historical resources” is an appropriate conclusion and there are historical resources within the PAL, but the project or activity will have no effect on them; explain why they would not be affected.
- For state-owned historical resources, Caltrans has determined that a conclusion of “No State-owned Historical Resources are Affected” is appropriate either because there are no state-owned historical resources within the PAL or the project or activity would have no effect on such resources, per [5024 MOU Stipulation IX.A](#).
- Caltrans has determined “No Substantial Adverse Change-Standard Conditions” is an appropriate conclusion because the historical resources (not owned by Caltrans) within the PAL the Standard Conditions of either ESAs or use of the *Secretary of the Interior’s Standards for the Treatment of Historic Properties* will be imposed as outlined in [106 PA/5024 MOU Attachment 5](#). Note that this finding cannot be used for state-owned historical resources; see “HRCR to CSO.”
- Caltrans has determined a “Substantial Adverse Change” conclusion is appropriate finding because the project will cause adverse change to historical resource (not owned by Caltrans) within the PAL; explain how they would be affected and refer to the Mitigation Plan section of the HRCR for additional information. Note that this finding cannot be used for state-owned historical resources; see “HRCR to CSO” for state-owned historical resources not on the Master List and “HRCR to SHPO” for state-owned historical resources on the Master List.

Processing the “HRCR to District File”

District PQS or consultants prepare the document and the Caltrans PQS’s review for approval signature and the DEBC’s approval signature completes the CEQA and/or PRC 5024 process. As there are no cultural resources for which SHPO concurrence

is needed, the HRCR does not get transmitted to SHPO, but when state-owned cultural resources are within the PAL, Caltrans provides information on these actions in its annual report to SHPO, per [5024 MOU Stipulation XIX.E](#); see also [Section 2.8.14](#). The environmental document summarizes the results of the findings and includes the appropriate “finding” statement(s) for cultural resources identified within the PAL.

The District Environmental Branch retains the signed HRCR and supporting documentation in its project files. The District HRC sends one copy of the completed HRCR with supporting documentation to any consulting parties, and one copy to the appropriate Information Center.

2.9.2.2 HRCR to SHPO

Pursuant to PRC 5024 and the [5024 MOU Stipulation VIII.C](#), when state-owned cultural resources requiring evaluation (whether eligible or not) are present in the PAL for a project or activity, the Caltrans district PQS completes the “HRCR to SHPO” section and transmits the HRCR to SHPO for concurrence on the eligibility findings. These HRCR findings are required even if the resources within the PAL will not be affected by the proposed project or activity.

When to use “HRCR to SHPO”

This section of the HRCR is completed when the HRCR contains any of the following types of state-owned resources that require evaluation:

- Built-environment cultural resources.
- Archaeological sites.
- Non-structural cultural resources and sites (e.g., landscapes, tree rows, sites of significant events, etc.) that require evaluation
- Native American cultural site that require evaluation.

Under most circumstances, NRHP/CHL eligibility evaluations for built-environment resources (such as buildings, structures, and districts) and historical archaeological sites are included in a Historic Resources Evaluation Report (HRER), while prehistoric archaeological sites are evaluated in an Archaeological Evaluation Report (AER). These evaluation documents are attached to the HRCR.

On occasion, a “HRCR to SHPO” section also may be used when archaeological sites in the PAL will require Phase II test excavations to determine their NRHP/CHL eligibility. In these circumstances, the HRCR documents the presence of potentially

eligible sites within the PAL and states that archaeological testing to determine eligibility will be undertaken if the selected alternative will affect the sites and the project or activity cannot be redesigned to avoid them. After a test excavation is completed, the Caltrans district must transmit a Supplemental HRCR with the test excavation report to SHPO.

Processing the “HRCR to SHPO”

Under the 5024 MOU, these HRCRs and Supplemental HRCRs to SHPO are used only for determinations of eligibility and are processed as described below.

The District HRC transmits one copy of the “HRCR to SHPO” and attached documentation to SHPO and one copy to CSO along with a copy of the transmittal letter. The HRC should send one copy to consulting parties (such as Indian tribes or other interested parties) at this time so they have an opportunity to convey any comments to CSO. The Caltrans district letter to SHPO transmitting the HRCR will request SHPO’s concurrence on Caltrans’s determinations of eligibility. If pertinent, the letter may state Caltrans has made a finding of No State-owned Historical Resources Affected or finding of No Adverse Effect with Standard Conditions and is transmitting that finding to CSO in accordance with the 5024 MOU. For any NRHP/CHL eligible state-owned built-environment resources, such as buildings, bridges, roads, or other structures, the transmittal letter also will request SHPO’s comments under PRC 5024(b) and a request to add the state-owned historical buildings or structures to the Master List pursuant to PRC 5024(d). (See Exhibit 2.12 for sample transmittal letters.)

Under the 5024 MOU, Caltrans determines the PAL and scope of identification efforts, but SHPO may comment on both. SHPO’s response may be concurrence, but also may be a request for additional information.

In the rare event that the Caltrans district, CSO and SHPO do not reach agreement on determination(s) of eligibility, pursuant to [5024 MOU Stipulation VIII.C.6.b](#) and for purposes of PRC 5024 and 5024.5 only, the SHPO’s determination is final and binding.

Once SHPO has concurred on Caltrans eligibility determinations and the district finalizes HRCR and the District HRC sends a copy of the HRCR and transmittal letter to the CSO BEPS Branch Chief for filing and a copy of the HRCR to the appropriate

Information Center. The District HRC notifies any Indian tribes or interested parties of SHPO's concurrence.

If the project or activity is also a CEQA project, the SHPO's letter is attached as an exhibit to the environmental document. A statement summarizing the consultation is also included in the environmental document. If SHPO does not comment or the SHPO's 30-day review deadline has passed, the Caltrans district will include a copy of the email message that notifies SHPO that the district is moving forward.

2.9.2.3 HRCR to CSO

When to use "HRCR to CSO"

This section of the HRCR is completed when the HRCR contains any of the following findings.

- Finding of No Adverse Effect with Standard Condition through the use of the following: 1) through establishing ESAs to protect archaeological sites or built-environment historic properties, 2) through the use of the SOIS, or 3) transfer of Certified Local Government (CLG) designated state-owned historical resources.. See [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#) and Exhibits [2.7](#), [2.14](#), and [7.5](#).
- Finding of No Adverse Effect other than the standard conditions as outlined in [5024 MOU Stipulation X.B.2](#).
- Finding of Adverse Effect with Standard Mitigation Measures; this is used only for NRHP/CHL eligible or listed/registered state-owned archaeological sites as outlined in [5024 MOU Stipulation X.C.1](#) and [Attachment 6](#), and Exhibits [2.7](#) and [2.14](#).
- Finding of Adverse Effect as outlined in [5024 MOU Stipulation X.C.2](#) and Exhibits [2.7](#) and [2.14](#).

Processing the "HRCR to CSO"

The Caltrans District completes the "HRCR to CSO" section of the HRCR and the District HRC transmits one copy of the HRCR and supporting documentation to the CSO BEPS Branch Chief. When the affected state-owned historical resources are on the Master List, for Findings of No Adverse Effect (without standard conditions) and

for Findings of Adverse Effect, the District HRC provides two copies of the HRCR and supporting documentation to the CSO BEPS Branch Chief who will send the HRCR package to SHPO. If the Caltrans District has previously consulted with an Indian tribe or other interested party, the HRC sends one copy to them at this time so they have an opportunity to convey any comments to CSO.

The Caltrans district memo to CSO transmitting the HRCR will state that Caltrans has proposed an: FNAE-SC (ESA, SOIS, or CLG Designation), FNAE, FAE-SMM (Standard Mitigation Measures) or FAE, and is transmitting that finding in accordance with the 5024 MOU.

FNAE-SCs, as outlined in 5024 MOU Stipulation X.B.1 for state-owned historical resources whether or not they are on the Master List: For an FNAE-SC, if within 15 days of receipt CSO does not object to the proposed FNAE-SC-ESA, -SOIS, or -CLG Designation, the project or activity is not be subject to further review under this MOU. CSO will provide a quarterly summary notification to SHPO of all FNAE-SC findings in accordance with [5024 MOU](#) Stipulation XIX.E.2.

FNAE for historical resources not on Master List, as outlined in 5024 MOU Stipulation X.B.2 and pursuant to PRC 5024(f): For this kind of FNAE, if within 15 days of receipt CSO does not object to the proposed FNAE, the project or activity is not be subject to further review under this MOU. CSO will provide a summary notification to SHPO of all FNAE-SC findings in accordance with [5024 MOU](#) Stipulation XIX.E.

FNAE for historical resources on Master List, as outlined in 5024 MOU Stipulation X.B.2 and pursuant to PRC 5024.5: For this kind of FNAE, when if within 15 days of receipt CSO does not object, CSO will forward the FNAE to SHPO for concurrence. If within 30 days of receipt SHPO does not object to the proposed FNAE, the project or activity is not be subject to further review under this MOU.

FAE-SMM for eligible state-owned archaeological resources not on Master List, as outlined in 5024 MOU Stipulation X.C.1 and Attachment 6 and pursuant to PRC 5024(f): For this kind of FAE-SMM, if within 30 days of receipt CSO does not object to the proposed FAE, the project or activity is not be subject to further review under this MOU. CSO will provide a summary notification to SHPO of all FAE-SMM findings in accordance with [5024 MOU](#) Stipulation XIX.E.

FAE for state-owned historical resources not on Master List, as outlined in 5024 MOU Stipulation X.C.2 and Attachment 6 and pursuant to PRC 5024(f): For this kind of F, if within 30 days of receipt CSO does not object to the proposed FAE, the project or activity is not be subject to further review under this MOU. CSO will provide a quarterly summary notification to SHPO of all FNAE-SC findings in accordance with [5024 MOU Stipulation XIX.E.2](#).

FAE for historical resources on Master List, as outlined in 5024 MOU Stipulation X.B.2 and pursuant to PRC 5024.5: For this kind of FAE involving state-owned historical resources that are on the Master List, when if within 15 days of receipt CSO does not object, CSO will forward the FAE to SHPO for concurrence. If within 30 days of receipt SHPO does not object to the proposed FAE, the project or activity is not be subject to further review under this MOU.

Combined HRCR

The Caltrans district may send an HRCR containing both “HRCR to SHPO” and “HRCR to CSO” findings when SHPO previously has not commented on determinations of eligibility for evaluated resources and the undertaking will avoid potential effects through the use of an FNAE-SC. However, any FNAE-SC finding is contingent upon SHPO’s concurrence with eligibility.

2.9.3 Supplemental HRCR

Sometimes it is necessary to prepare a Supplemental HRCR to account for project-or activity-related factors not treated in the original HPSR.

Common reasons for preparing a Supplemental HPSR include:

- A project or activity PAL has been revised or enlarged, resulting in the need to consider cultural resources not covered in the original HRCR.
- A Phase II or evaluation report on an archaeological site has been completed, providing eligibility information that was not available in the original HRCR.
- The original HRCR requires revision because the project or activity has changed, there is a need for an environmental reevaluation, or there have been changes to a previously evaluated cultural resource.

A Supplemental HRCR follows the general format of the HRCR and includes all pertinent new or revised technical documents. It presents abbreviated information regarding the project and summarizes the findings of the original HRCR, but it will

focus upon the results of identification and evaluation efforts within an expanded HRCR or upon the changed conditions that led to preparation of the Supplemental HRCR. If the change involves archaeological sites that have been subjected to Phase II excavations to assess eligibility, the AER will be attached to the Supplemental HRCR.

2.9.4 Internal Review of Documents for State-Only Projects

The District Director has review and approval authority for all CEQA-related historical resources compliance documents, but normally delegates this responsibility to the DEBC. All cultural resources documents must be peer reviewed by Caltrans PQS. Peer reviews of state-only documents are the same as for Section 106 documents. While one or more EBCs may approve and sign technical studies that involve more than one discipline, e.g. HRERs, combined archaeological and built environment identification and evaluation studies or effect findings, only one EBC signs the cover document, i.e. the HRCR. See [Section 2.5.5](#) and [Exhibit 2.11](#) Table C for details regarding peer reviews, keeping in mind that the appropriate state laws and regulations must be cited and addressed.

2.9.4.1 HRCR Peer Review

District PQS, appropriately qualified consultants, or upon request CSO PQS, prepare the HRCR. Following peer review of the draft HRCR and any necessary revisions, the preparer signs the title page in the narrative format or the appropriate signature block on the short form of the HRCR. The appropriate Caltrans PQS must review and approve consultant-prepared HRCRs and indicates the review and approval has been completed by signing the title page in the narrative format or the appropriate signature block on the short form. Caltrans PQS-prepared HRCRs also must be peer reviewed. Following peer review of the draft document and after any necessary revisions have been made, the appropriate PQS conducting the review and approval signs the HRCR as stated above for reviews of consultant-prepared HRCRs.

The DEBC indicates review and formal approval of the HRCR by signing the title page in the narrative text format or the approval signature block of the short form HRCR. The document then is filed in the district files. The DEBC forwards the project's mitigation measures and commitments to the appropriate project manager for inclusion in the project and construction files. The District HRC sends one copy of the HRCR to CSO for filing; the copy may be a hard copy, but electronic format is preferred.

When state-owned cultural resources are evaluated and documented in the HRCR, the DEBC, or upon request the CSO BEPS Branch Chief, forwards the HRCR to SHPO for review and comment under the provisions of the 5024 MOU.

Caltrans has policies and procedures for the external distribution and publication of Caltrans-prepared and consultant-prepared reports and public presentations that apply to HRCRs and their attachments. Prior to distributing reports or making public presentations, consult [Exhibit 2.16](#).

The historical resources sections of the draft environmental document summarize the information contained in the HRCR. The draft environmental document states that the HRCR is on file at the District office for public review. If an ASR contains information or mapping showing the locations of archaeological sites is attached to the HRCR, however, the ASR shall be removed from all copies of the HRCR before it is made available for public review. In its place, a page should then be inserted explaining that the ASR has been deleted because archaeological records are confidential. Likewise, if archaeological site(s) are depicted on the Project Area Limits map, the map should also be removed to protect the site(s') locations.

Any comments that Caltrans receives from SHPO, other public agencies, or the interested public, as well as any additional information that has become available, must be taken into consideration and discussed in the final environmental document.

2.9.5 Relationship to CEQA Environmental Documents

The HRCR must be complete by the time the environmental document is circulated to the public. When PRC 5024(f) or 5024.5 reviews are involved for state-owned historical resources, send the HRCR to CSO and/or SHPO *before* circulating the draft environmental document, so that CSO and/or SHPO comments can be incorporated. Allow SHPO at least 45 days before circulating the draft environmental document to comfortably accommodate their 30-day review period.

Because PRC 5024.5 consultation with SHPO must be complete by final environmental document approval, initiate SHPO review as early as possible.

As a state agency with jurisdiction by law under CEQA, SHPO has the opportunity to review and comment on effects to historical resources during the draft environmental document public review period. SHPO receives a copy of all state agency environmental documents filed through the State Clearinghouse. However, districts also

should include SHPO on their mailing list for any draft environmental documents that include historical resources analysis.

The historical resource compliance process is complete upon approval of the final environmental document. Caltrans will carry out mitigation after final environmental document approval but before construction begins.

2.10 NEPA and CEQA Joint Compliance

Caltrans projects that have federal involvement also must comply with state environmental law and regulations. In general, this joint compliance is integrated at the time the joint NEPA/CEQA documents are prepared. While NEPA and CEQA are similar in concept, they differ in terminology, procedures, and substantive mandates to protect the environment. In general, when preparing joint compliance documents, agencies apply whichever standard, state or federal, is the more stringent. In preparing cultural studies, apply the federal standard when preparing preliminary studies and Section 106 compliance documents.

Surveys and evaluations that meet the federal standards generally satisfy CEQA and PRC 5024 requirements.

The criteria for listing in the CRHR are similar to the criteria for listing in the NRHP. However, there are some areas in which the state requirements differ from federal standards.

What is considered a historical resource under CEQA is broader and more encompassing than what are considered historic properties that meet the criteria for listing in the NRHP. Under CEQA Guidelines, at [CCR 15064.5](#), the following are historical resources:

- *Resources designated under a local ordinance or resolution.* These same locally designated resources, however, might not be eligible for listing in the NRHP.
- *Resources identified as significant in locally adopted surveys that conform to Office of Historic Preservation standards.* However, they might not meet NRHP criteria.

Likewise, the CRHR criteria, as outlined in the CRHR regulations at [CCR 4852\(d\)](#), include special considerations for types of cultural resources that normally are not considered eligible for listing in the NRHP, such as:

- Moved buildings, structures, or objects.
- Historical resources achieving significance within the last 50 years.
- Reconstructed buildings.
- Properties identified in historical resources surveys.

See [Exhibit 4.3](#) for more detailed information on the conditions under which these resources would meet the CRHR criteria, and would be considered historical resources under CEQA.

Under California law, demolition or destruction of a historical resource is a significant impact and cannot be mitigated to less than significant impact by heritage recordation. See [Section 2.7.7](#) of this chapter.

2.11. Disagreements and Differences of Opinion

Disagreements and differences of opinion on conclusions in cultural resources documents may happen, and there is an established procedure for handling them. This procedure is applicable whether CSO (as assigned by FHWA for federal undertakings), or Caltrans (under CEQA) is the lead agency.

If DEBC or higher management disagrees with the conclusions in a staff-prepared cultural resources document(s), such as an HPSR, HRCR, HRER, ASR, Bridge Evaluation, Finding of Effect, it may be rewritten.

Differences of opinion with technical reports (ASR, HRER) should be discussed with the author. If there is still disagreement, the process outlined below is followed.

2.11.1 Caltrans-prepared documents

The author's name is removed from the title page, or the report is revised to clearly indicate the author's text or conclusions versus management's text or conclusions. The Caltrans district sends the report to CSO and SHPO documenting the difference of opinion and presenting both views for review. In situations where there are professional disagreements between management and staff on cultural resources issues, it is strongly advised that the CSO Chief be notified.

2.11.2 Consultant-prepared documents

If there is disagreement between Caltrans PQS and a consultant that has not been resolved, Caltrans PQS prepares an abbreviated separate document that explains the disagreement. It may refer to relevant sections of the consultant-prepared report for which there is no disagreement instead of repeating the section(s) wholesale (e.g. Historical Overview, Research Methods, maps, etc.)

The Caltrans-prepared document is the *primary* document (HPSRs, HRERs, ASRs, Bridge Evaluations, or findings of effect) and includes:

- Brief discussion of disagreement that documents both opinions.
- CSO/Caltrans opinion as the first one set forth in the document.
- Consultant's opinion as secondary opinion.
- If correspondence is included, it should be as an attachment and not included in the document; be sure documentation represents both sides of disagreement.
- Caltrans opinion is the first one set forth in the document.
- Consultant's opinion as secondary opinion.
- If correspondence is included, it should be as an attachment and not included in the document; be sure documentation represents both sides of disagreement.

Caltrans technical reports are not supplementary documents but primary documents, followed by consultant-prepared documents. This process applies to reports prepared by district staff, CSO staff, and consultants.

For state-only documents, such as HRCRs, the same procedure is followed; except they are not sent to CSO (as assigned by FHWA for federal undertakings) and the prevailing opinion is Caltrans.

Chapter 3: Native American Consultation

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Chapter 3: Native American Consultation

3.1 Introduction

Consideration of Native American spiritual beliefs and cultural values is an important requirement in the development of Caltrans highway projects. This chapter provides Caltrans policies and procedures for complying with various state and federal historic preservation laws, regulations, and guidelines for involving Native Americans in historic preservation decisions. *Requirements for consultation with Native Americans under the Section 106 Programmatic Agreement¹ ([Section 106 PA](#)) are the same as those required under the regulations implementing Section 106.*

The consultation policies and procedures ensure that:

- Native Americans are involved in all aspects of identifying, evaluating and treating Native American historic properties or historical resources² and
- Native Americans' recommendations on the treatment of Native American human remains, associated grave artifacts, and sacred objects that may be unearthed by Caltrans activities are given maximum consideration.

Also presented are Caltrans policies and procedures (a) for identifying and treating resources that are not eligible for inclusion in the National Register of Historic Places (NRHP), but are culturally significant, and (b) for providing Native American access to sacred sites and plant gathering areas located within Caltrans right of way. Although any group can be involved in the historic preservation or environmental process, Native Americans are specifically identified in the regulations and policies because of their relationship to archaeological sites, sacred areas and traditional cultural properties.

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*

² Historic properties are those that have been listed in or determined eligible for inclusion in the National Register of Historic Places. Historical resources under CEQA are those that are (1) listed in or meet the criteria for inclusion in the California Register of Historical Resources, (2) identified as significant in surveys that meet the standards of the California Office of Historic Preservation, or (3) are resources that are listed in a local register of historical resources by a local government.

Caltrans' historic preservation coordination efforts with Native Americans involve consulting with federally recognized tribes and California Indian traditional cultural leaders, unrecognized groups, and individuals on their concerns regarding Caltrans activities. Simultaneously, these efforts also include identifying other cultural concerns and areas of cultural significance that a proposed project may impact and that may need to be addressed under environmental law. Consultation typically focuses on the identification, evaluation, determination of effects, and treatment of archaeological resources. However, consultation also is necessary to identify areas important to Native Americans that may be unrecognized by people outside the culture. These include sacred sites, plant-gathering areas, and certain historic properties that are referred to as Traditional Cultural Properties (see [Section 4.4.2](#) of this volume, and [National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties](#)). Knowledge of such places is almost always confidential, and their identification and management, therefore, can be problematic and sensitive. Caltrans, through its Environmental, Maintenance, and Right of Way Divisions and Offices, seeks to ensure that Native Americans have access to such sites. Caltrans also seeks Native Americans to monitor archaeological excavations and sometimes construction, and works per State law with Native Americans identified as Most Likely Descendants to develop appropriate treatment of the remains and associated grave artifacts, if Native American human remains are discovered during any Caltrans activities.

3.2 Government to Government Relations and Section 106 Consultation

Federally recognized Indian tribes are sovereign nations with governing rights over their land and their people. The federal government's unique legal relationship with Indian tribes is set forth in the United States Constitution, treaties, statutes, and court decisions. FHWA, as a federal agency, is responsible for maintaining that relationship with tribes, usually defined as government to government, which entails consulting when policies change which may uniquely affect tribes. Caltrans' Directors Policy [Number 19](#) "Working with Native American Communities" echoes the need to respect tribal sovereignty and consulting with tribes on a government level.

The regulations implementing Section 106 cautions that consultation with Indian tribes should be conducted in a manner respectful of tribal sovereignty and sensitive to the concerns and needs of the Indian tribe, and must recognize the government-to-government relationship between the federal government and Indian tribes

[36CFR800.2(c)(2)(ii)(B) and (C)]. Largely this translates to the agency official shall consult with representatives designated or identified by the tribal government.

Under the PA, although FHWA has authorized Caltrans to initiate consultation with Indian tribes, FHWA remains responsible for their government-to-government relationship with Indian tribes.

3.3 Background

California was home to an estimated 300,000 to over 700,000 Indians at the beginning of Spanish colonization in 1769. Graphically, [Native California](#) is composed of at least 60 different tribes, grouped into six language families. This general portrayal belies the linguistic evidence that as many as 80 languages, differentiated into an indeterminable large number of dialects, were spoken, and that territorial boundaries were fluid. Lifeways also were varied and closely paralleled the rich environmental resources of the state. Subsistence activities included the gathering of plant and animal foods, hunting, marine and fresh water fishing, and, in some areas, the practice of agriculture. The relative abundance of natural resources allowed for a large Native population, as well as the development of an elaborate ceremonial, religious, and material culture.

Like other Native people in the Western Hemisphere, the Indians of California declined following the entrance of Euro-Americans. Between 1770 and 1900 the Native population fell to 20,000³. The collapse and social disruption of Native culture was due primarily to: (1) development of the Mission system (1769-1834), (2) the opening up of land for settlement after the War with Mexico in 1848, (3) the rapid influx of immigrants to California after the discovery of gold in 1848, and (4) exposure to devastating Euro-American diseases.

The 1848 Treaty of Guadalupe Hidalgo at the end of the war between the United States and Mexico did not include any provisions for protecting Indian land title. The United States government initiated attempts to resolve this. However, once the Gold Rush was on and California became a state, the government became less inclined to pursue this issue and, in actuality, circumvented any fair resolution. Almost all California Indians were deprived of protected land title because they were not notified of a provision of the Lands Claim Act of 1851. This provision stated that all lands with

³ Shelburne Cook, *The Conflict Between the California Indian and White Civilization*. (Berkeley: University of California Press, 1976)

invalid claims, or claims not presented within two years after the Act, would become public domain; this is what happened to Indian lands in 1853. Lands of certain bands of Mission Indians were protected by early Spanish and Mexican land grants and were retained by those bands.⁴

In 1852, the United States Senate did not ratify eighteen treaties previously negotiated between the U. S. Commissioners charged with negotiating treaties and the 139 California Indians the Commissioners identified as tribal chiefs or headmen of California tribes (see Heizer [1972] for a discussion of the treaties and the “chiefs”)⁵. The treaties would have established a land base for the California Indians and also would have conferred formal recognition to the tribes.

Land that was established for the Indians in the last half of the nineteenth century included reservations established in conjunction with military forts and later by the Four Reservation Act. The military forts were disbanded in 1869, and only three reservations (Hoopa, Tule River, and Round Valley) were created under the Four Reservation Act.⁶

Between 1906 and 1910, funds were provided through a series of appropriation Acts to purchase small tracts of land in the central and northern parts of the state for the landless Indians in those areas, thus establishing the Rancheria System in California. Nearly fifty years later, the federal government attempted to terminate the status of forty-one California rancherias under the Rancheria Act of 1958; thirty-eight were terminated, three were not. Termination was a federal Indian policy in the 1950s and 1960s, designed to end the tribes’ special relationship with the federal government and to subject them to state laws. Tribal land was converted into private ownership, and in most instances sold.⁷ In 1967, the newly established California Indian Legal Services sought to reverse, through litigation, the termination of the California

⁴ California Indian Legal Services, Briefing Paper: An Overview of the Historical Factors which have Contributed to the Special Status Problems of California Indians. Prepared for the Honorable Bill Richardson, Chairman, Subcommittee on Native American Affairs, June 9, 1993.

⁵ Robert F. Heizer, *The Eighteen Unratified Treaties of 1851-1852 between the California Indians and the United States Government*. (Berkeley: University of California Archaeological Research Facility, 1972).

⁶ Advisory Council on California Indian Policy, *The ACCIP Historical Overview Report: The Special Circumstances of California Indians*. In *Final Reports and Recommendations to the Congress of the United States Pursuant to Public Law 102-416*. (Sacramento:1997)

⁷ William C. Canby, Jr., *American Indian Law in a Nut Shell*. (St. Paul: West Publishing, 1988)

rancherias. Twenty-nine of the thirty-eight rancherias have since been restored, either through litigation or legislation.⁸

This brief and incomplete synopsis of the federal government’s policy towards California Indians provides a background to the situation today — that in addition to federally recognized land based tribes, there are many California Indian groups and individuals without a land base and/or without federal recognition. In 1994, the Advisory Council on California Indian Policy (ACCIP), composed of representatives of federally recognized, terminated and unacknowledged tribes was established by Public Law 102-416, for the expressed purpose of holding a series of statewide meetings to hear the special concerns of California Indians and to develop recommendations to Congress for ensuring that the needs of California Indians are being met. In September 1997, the ACCIP issued to Congress its final reports and recommendations, which addressed the social, political, and economic status of California Indians.⁹

Many Indians living in urban areas were displaced from other states under the Bureau of Indian Affairs “relocation” program in the 1950s. Through this program, Indians received grant money to leave reservations and seek work in metropolitan centers, which had been perceived as a solution to the reservations’ high rate of unemployment.

According to the 2010 U.S. Census, over 360,000 Native Americans and Alaska Natives reside in California's [58 counties](#); perhaps half these numbers are Indians indigenous to California.

As of 2014, California has 109 federally recognized tribes.

The majority of Indian Trust Land, reservations, and rancherias are located in California’s Northwest region, the North Coast Ranges, and in inland Southern California. The California Department of Housing and Community Development’s (CDHC) 2004 [Field Directory of the California Indian Community](#) was updated in 2011 by CDHC’s California Indian Assistance Program and the Indian Dispute Resolution Services. The Field Directory gives the location of each reservation and rancheria, including land holdings, population, and type of tribal government and representatives, current as of the date of publication. Information on the tribes may change in the interim, so before taking action, confirm who are the tribal leaders and other per-

⁸ Advisory Council on California Indian Policy, The ACCIP Termination Report: The Continuing Destructive Effects of the Termination Policy on California Indians. In Final Reports and Recommendations to the Congress of the United States Pursuant to Public Law 102-416. (Sacramento:1997)

⁹ Advisory Council on California Indian Policy, Final Reports and Recommendations to the Congress of the United States Pursuant to Public Law 102-416. (Sacramento:1997)

minent information. A more current update on [tribal leaders](#) and addresses can be viewed on the Department of the Interior, Bureau of Indian Affairs website.

The Headquarters' Cultural Studies Office (CSO) in the Division of Environmental Analysis will distribute updates of the Field Directory to the Districts, as they become available.

3.4 Coordination Roles and Responsibilities

3.4.1 Caltrans – Headquarters and Districts

Headquarters and each of the Districts have staff who are designated specifically to assist in the implementation of Caltrans' Native American policies and to ensure that Caltrans complies with applicable federal and state laws and regulations concerning Native American cultural issues.

3.4.1.1 Headquarters

The Headquarters statewide Native American Coordinator (NAC) works in the Native American Cultural Studies Branch of Headquarters' CSO (see [Chapter 1 Section 1.3.2](#) of this volume). The NAC is responsible for:

- 1) Assisting the Districts, upon request, in all interactions with the Native American Heritage Commission (NAHC), the Office of Historic Preservation (OHP), also known as the State Historic Preservation Officer (SHPO), and all other public agencies, and
- 2) Providing direction to the Districts on Native American affairs, including transmittal of pertinent legislation and information as it becomes available.

3.4.1.2 Districts

Each District has a designated District Native American Coordinator (DNAC) in the Environmental unit. The DNAC is responsible for ensuring that Native American consultation regarding cultural resources occurs, either by themselves or by other staff, and that documentation of contacts and consultation for cultural resources is included in environmental documents. Consultation is to occur early in a project's planning stage and continuously throughout the life of a project. Chapter 1 of this volume in Section 1.3.2 [District Native American Coordinator](#) also contains information on the DNAC's responsibilities.

3.4.1.3 Transportation Planning Native American Liaisons

Transportation Planning has established a [Native American Liaison Branch](#) in Headquarters and [Native American Liaisons](#) in the ten districts with federally recognized tribes (i.e., all but Districts 7 and 12). The liaisons assist efforts to establish Caltrans' government-to-government relationship with tribes.

3.4.2 Native American Heritage Commission

The California Native American Heritage Commission ([NAHC](#)) was established in 1976 by state statute to preserve and protect burial sites and other places of special cultural or spiritual significance to Native Americans. The NAHC, its powers, duties, and responsibilities, are described in California Public Resources Code (PRC) Chapter 1.75 [Sections 5097.91-5097.99](#). Under PRC [5097.95](#), each state and local agency must cooperate with the NAHC in carrying out its duties under this chapter. Caltrans works cooperatively with the NAHC concerning all Caltrans property and projects that may involve burial sites or elements of cultural or religious significance to Native Americans.

The NAHC consists of nine members, of which at least five are elders, traditional people or spiritual leaders. Members are nominated by a Native American organization, tribe or group, and are appointed by the Governor with the advice and consent of the Senate. The Governor appoints the Commission's Executive Secretary. A major responsibility of the NAHC is to identify and maintain a catalogue of places of special religious or social significance to Native Americans, and of known gravesites and cemeteries of Native Americans on private lands.

NAHC Authority and Responsibilities

The NAHC is authorized to assist Native Americans in obtaining appropriate access to sacred places on public lands and to aid state agencies in any negotiations with federal agencies for the protection of Native American sacred places on federally-administered lands in California.

Other major responsibilities of the NAHC include:

- Assisting landowners and Native Americans in developing agreements
- Mediating disputes regarding the respectful treatment and disposition of Native American human burials, skeletal remains and associated grave artifacts
- *Designating a Most Likely Descendent when Native American human remains are discovered* (see Section 3.6.3, this chapter).

3.4.3 State Historic Preservation Officer

The California State Historic Preservation Officer (SHPO) reviews Historic Property Survey Reports (HPSR) and subsequent Section 106 findings for documentation of effective Native American coordination.

3.4.4 Tribal Historic Preservation Officer

The 1992 Amendments to the National Historic Preservation Act (NHPA) provide for a tribe to assume all or any part of the specified functions of the SHPO, if certain criteria are met with respect to tribal lands ([NHPA Section 101\[d\] \[2\]](#)), and to designate a tribal preservation official, commonly called a Tribal Historic Preservation Officer (THPO).

Functions that a tribe may undertake include advising and assisting federal and state agencies in carrying out their historic preservation responsibilities. Procedures for tribal programs will eventually be outlined in 36 CFR 61.8 and 61.9, currently reserved sections in [Part 61](#), Procedures for State, Tribal, and Local Government Historic Preservation Programs.

Tribal lands are all land within the exterior boundaries of any Indian reservation and all dependent Indian communities.

On August 5, 1996, the Secretary of the Interior granted THPO status to the Yurok Tribe. Since then, 27 [California tribes](#) and the [Washoe Tribe](#) of California and Nevada, as of July 2013, have established THPO offices. Caltrans will consult under Section 106 with THPOs on all properties, both tribal and non-tribal within the boundaries of the tribes' reservations. This consultation also serves the consideration of historical resources under California State law on projects with federal involvement.

The National Association of Tribal Historic Preservation Officers provides a [THPO contact list](#) based on information from the [National Park Service](#).

3.4.5 Federally Recognized Tribes

Tribes acknowledged by the federal government to have a government-to-government relationship with the United States and have specific responsibilities, powers, limitations and obligations, are referred to as *federally recognized tribes*. Federal agencies must consult with these Indian tribes regarding properties of traditional religious and cultural importance. A list of federally recognized tribes is published nearly annually in the Federal Register, and the Bureau of Indian Affairs [Office of Indian Services Tribal Leaders Directory](#) regularly updates this list on its webpage.

3.4.6 Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) is responsible for the administration and management of lands held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. In California, lands held in trust, generally are the rancherias and reservations, the Washoe Tribes' Woodsford Community (Alpine County), and casino lands.

When an archaeological investigation is planned on a reservation or rancheria, the BIA is involved in issuing permits, unless the reservation or rancheria has adopted regulations that do not require BIA involvement.

The BIA will issue any Archaeological Resources Protection Act (ARPA) permits needed for any planned archaeological excavation or inadvertent discovery of human remains on non-tribal land within the exterior boundaries of a reservation or rancheria, as outlined in the Native American Graves Protection and Repatriation Act (NAGPRA).

3.4.7 Most Likely Descendants

When a county coroner contacts the NAHC upon the discovery of human remains likely to be Native American, the NAHC designates a Most Likely Descendent, who is either an individual(s) or a tribe. *Caltrans confers with the Most Likely Descendent on the respectful treatment and disposition of remains* discovered during any of its activities.

3.4.8 Traditional Cultural Leaders

Traditional cultural leaders are Native Americans who are acknowledged by their tribe, group, or community as having traditional knowledge of their culture and ancestral area.

3.4.9 Consulting Parties

The SHPO, Indian tribes, local governments and applicants for federal assistance, permits, licenses, and other approvals are entitled to actively participate as consulting parties during Section 106 process. Other individuals and organizations with a demonstrated interest in the project (e.g., "the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties.") may participate as consulting parties in the Section 106 process. However, their participation is subject to approval by the responsible federal agency.

3.4.10 Native American Monitor

The Native American Monitor is a liaison between Caltrans and the local Native American community, with whom Caltrans may contract on a project-by-project basis. The Monitor participates and obtains firsthand knowledge of archaeological excavations and construction in areas (as agreed upon in consultation) that are known to have cultural sensitivity or have the potential for cultural sensitivity. The Native American Monitor should be knowledgeable about his or her culture and its traditions, and be familiar with archaeological practices, as well as federal and state laws and regulations regarding Native American cultural concerns.

3.5 Laws, Regulations and Guidance

This section summarizes the federal and state laws that specifically relate to Native American concerns.

3.5.1 Federal Laws, Regulations, and Orders

National Historic Preservation Act, as Amended

The 1992 amendments to the National Historic Preservation Act (NHPA) enhance the recognition of tribal governments' roles in the national historic preservation program, including adding a member of an Indian tribe or Native Hawaiian organization to the Advisory Council on Historic Preservation (ACHP).

The NHPA amendments:

- Clarify that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined eligible for inclusion in the NRHP.
- Reinforce the provisions of the Council's regulations that require the federal agency to consult on properties of religious and cultural importance.

The 1992 amendments also specify that the ACHP can enter into agreement with tribes that permit undertakings on tribal land and that are reviewed under tribal regulations governing Section 106.

Regulations implementing the NHPA ([36 CFR 800](#)) state that a federal agency (Federal Highway Administration [FHWA] and Caltrans acting on its behalf) must consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking, *regardless of location*. For any federal undertaking that occurs on or affects historic properties on tribal lands, the THPO, or

if a THPO is not designated, the tribal representative, are signatories, along with FHWA – and if participating, the SHPO and/or the ACHP – to any Section 106 Memorandum of Agreement.

Section 4(f) – U.S. Department of Transportation Act

Section 4(f) of the U.S. Department of Transportation Act of 1966 and the federal regulations that implement Section 4(f), [23 CFR 774](#), apply to historic properties that are listed or determined eligible for inclusion in NRHP. This also includes any properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are NRHP listed or eligible. See [Chapter 2](#) of this volume, Section 2.4.8 for a discussion of Section 4(f).

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires agencies to consider both positive and negative effects of their actions on the environment, including consideration of the broader cultural environment beyond historic properties and beyond place. This includes consideration of social cohesion, relation of community to patterns of local land use, social institutions, behavior, community values, lifeways, and beliefs and would include Native American concerns in these categories.

Archaeological Resources Protection Act of 1979

The Archaeological Resources Protection Act of 1979 ([ARPA](#)) and implementing [regulations](#) require landholding federal agencies to notify federally recognized Indian tribes before a permit is issued for archaeological excavation on sites of religious or cultural importance to them in national parks, wildlife refuges, or forests, or on Indian lands.

Federally recognized tribes must be notified *30 days before issuing a permit* for excavations on public land; upon request, the Federal land manager must meet with them in those 30 days to discuss their concerns. On Indian lands, Indian tribe or individual *consent must be obtained before the permit is granted*.

Uniform rules and regulations were published by the Departments of the Interior ([43 CFR 7](#)), Agriculture ([36 CFR 296](#)), and Defense ([32 CFR 229](#)), and the Tennessee Valley Authority ([18 CFR 1313](#)) in the January 6, 1984 *Federal Register*. Similar regulations were published for implementing ARPA on Indian lands ([25 CFR 262](#)) in the December 13, 1993 *Federal Register*.

The regulations also state that the federal agency also may notify any other Native American group known by the agency to consider the sites to be of cultural or religious importance. The intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from federal lands and tribal lands must follow both the requirements of ARPA and the Native American Graves Protection and Repatriation Act (NAGPRA). The BIA will issue any ARPA permits needed for excavation on private lands within the exterior boundaries of Indian reservations. Caltrans must obtain the appropriate permits whenever excavation is planned on federal or Indian Lands. Chapter 5 of this volume, [Section 5.11](#) contains more information on ARPA and other permits and the process for obtaining them.

The Native American Graves Protection and Repatriation Act of 1990

The Native American Graves Protection and Repatriation Act ([NAGPRA](#)) became effective November 16, 1990. NAGPRA addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to human remains and certain cultural items with which they are affiliated. The Act directs federal agencies and museums to identify, in consultation with Native Americans, the cultural affiliation of Native American human remains and associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony, in holdings or collections under their possession (i.e., physical custody) or control (i.e., having sufficient legal interest). Ultimately, the intent is to repatriate the human remains and other cultural items to the appropriate lineal descendants or tribe.

Right to Ownership

The Act also statutorily establishes Native American right to ownership of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony which are excavated or discovered on Federal or tribal lands after November 16, 1990. A Review Committee, also established by the Act, determines the disposition of either unclaimed or unaffiliated human remains or cultural items, and reviews disputed claims. The committee includes three Native Americans, three scientific/museum representatives, and one general member. The legislation forbids the participation of federal employees on the Committee.

NAGPRA Regulations

The regulations ([43 CFR 10](#)) for carrying out the Act were initially published in the *Federal Register* on December 4, 1995. Since then the Department of Interior published additional rules for reserved sections and most recently, republished in the *Federal Register* on May 9, 2013, the regulations to include the additional rules and

address minor inaccuracies and inconsistencies noticed over the years. The regulations establish definitions and the consultation procedures for lineal descendants, Indian tribes, Native Hawaiian organizations, museums and Federal agencies to follow to carry out the Act.

NAGPRA only applies to FHWA when a Federal-aid project is located on tribal or Federal lands. Since FHWA does not control or possess any collections, the repatriation provisions of NAGPRA for collections obtained prior to 1990 do not apply to FHWA. Caltrans, however, is working with universities on repatriation of human remains and associated items recovered from collections generated by Caltrans activities. Most of the collections with human remains are those obtained prior to 1976. After 1976, Caltrans worked with Most Likely Descendants pursuant to California law on the respectful treatment and disposition of human remains. For on-going or future projects, FHWA will reimburse costs associated with inventory, identification, and repatriation as an environmental mitigation expense.

American Indian Religious Freedom Act of 1978

In 1978, the U. S. Senate and House of Representatives recognized that the passage of laws meant to conserve and preserve natural species and resources unintentionally impinged on the free exercise of religion for Native Americans. These laws limited Native Americans' access to sacred sites and prohibited the use and possession of sacred objects necessary to practice their religion. The House and Senate passed a joint resolution which states that, “. . . henceforth, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions . . . including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites”.

From this joint resolution, came the American Indian Religious Freedom Act of 1978 ([AIRFA](#)) [P.L. 95-341] and [Amendments](#) of 1994 [P.L. 103-334]. AIRFA states, “it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.”

Executive Order 12898 –Environmental Justice

This [Executive Order 12898](#) (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations from 1994) directs federal agencies to develop an agency-wide environmental justice strategy that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. The Executive Order (E.O.) created an Interagency Working Group to offer consistent guidance to federal agencies in developing the administration, interpretation, enforcement, and research of an environmental justice strategy to encourage cooperation and coordination among the agencies conducting research, and to hold public meetings for the purpose of fact finding, receiving public comments, and conducting inquiries concerning environmental justice. The E.O. directs federal agencies to use existing data systems and develop cooperative agreements with state, local, and tribal governments in order to share information and to avoid unnecessary duplication of efforts.

FHWA and Caltrans acting on its behalf are required to consult and coordinate with federally recognized Indian Tribes on issues addressed in the E.O.

Executive Order 13007 - Indian Sacred Sites

President Clinton signed [E.O. 13007](#) on May 24, 1996, ordering federal agencies managing federal lands to implement procedures to:

- Accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners
- Avoid adversely affecting the physical integrity of such sacred sites
- Ensure that reasonable notice is provided of any proposed action that may restrict future access or use or could adversely affect the sites

The agencies were to report to the President any necessary changes to facilitate meeting these requirements and any procedures identified to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to adverse agency action on such sites on Federal lands. Two elements of the E.O. that are considered problematic: (1) the definition of a sacred site as a “narrowly delineated”, i.e., small, bounded location, and (2) the requirement that tribal leaders tell the land agency about the site, at the risk of alienating the tribe’s traditional practitioners. See also the ACHP’s publication, “The Relationship Between [Executive Order 13007 Regarding Indian Sacred Sites and Section 106.](#)”

Executive Order 13175 – Consultation and Coordination

On November 6, 2000, President Clinton signed [Executive Order 13175](#) regarding consultation and coordination with Indian tribal governments that directs federal agencies to establish meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications; strengthen the United States government-to-government relationships with Indian tribes; and reduce the imposition of unfunded mandates upon Indian tribes. Executive Order 13175 supersedes Executive Order 13084 (1998) previously signed by President Clinton.

Executive Memorandum on Tribal Consultation

On November 5, 2009, President Obama issues a [Memorandum on Tribal Consultation](#) on Tribal Consultation that tasked executive departments and agencies with creating detailed plans of actions that they will take to implement the policies and directives of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.

U.S. Department of Transportation (USDOT) Order 5301.1

U.S. Transportation Secretary Rodney E. Slater signed [USDOT Order 5301](#) (Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes) on November 16, 1999. The Order calls on agencies of the U.S. DOT to build more effective working relationships with Native American tribal governments and to provide increased opportunities for Native Americans to participate in transportation programs. The stated purpose of the Order is “[T]o ensure that programs, policies and procedures administered by the DOT are responsive to the needs and concerns of American Indians, Alaska Natives, and tribes.”

U.S. Department of Transportation Tribal Consultation Plan

In response to President Obama’s Memorandum on Tribal Consultation, the USDOT established the Department’s [plan of actions](#). In the plan the USDOT lists actions they will take to foster meaningful government-to-government relations, improve existing tribal programs, ensure meaningful tribal input into future tribal transportation programs, ensure the USDOT’s uniform and effective delivery of tribal programs throughout the country, assist in implementing tribal infrastructure projects, assist tribal members in developing transportation capacities, and assist efforts to coordinate national tribal infrastructure policy and programs within the Federal government.

3.5.2 Federal Guidelines Relating to Native Americans

This section summarizes federal guidelines specifically as they relate to Native American concerns.

Advisory Council on Historic Preservation Guidance

Consultation with Indian Tribes in the Section 106 Review Process: A Handbook (2008)

This [Handbook](#) incorporates new and previous ACHP guidance on the requirements under Section 106 to consult with Indian tribes that attach religious and cultural significance to historic properties that may be affected by a federal undertaking. The guidance provides a brief synopsis of the meaning of government-to-government relationships and the relevant federal statutes pertaining to historic preservation, natural resource protection and cultural resource protection, expands upon the role of THPOs in the Section 106 process, and outlines the principles established in the regulations for consultation. Guidance on conducting consultation or on consultation in general, and specific references to consultation during the Section 106 review process's four steps (initiation, identification, assessment, and resolution) is provided in a "commonly asked questions and answer" format. The distinctions, and similarities, of the Section 106 process "on" tribal lands and "off" tribal lands are discussed. Tools and tips for successful consultation also are presented.

Treatment of Archaeological Properties, A Handbook (Part II, Section IV and Part III, Section XII) [1981]

Although dated, this Handbook still is cited and is the "foundation" for ACHP archaeology guidance, which now is provided on the [ACHP Archaeology Guidance](#) webpage.

In the review of projects involving archaeological properties, the ACHP ensures that all due consideration is given for any non-archaeological historical or cultural values the property may represent. For example, if an archaeological property also is valuable to a local community for cultural reasons, appropriate weight to this value will be given in decision making (Part II, Section IV). This guidance also notes that archaeological excavations should "relate positively to non-archaeological concern with the area and its archaeological properties," including religious and other cultural concerns of Native Americans (Part III, Section XII). Directly impacting a site is an adverse effect that often is mitigated by data recovery. Part II, Section X outlines other circumstances to consider in addition to a data recovery program when resolving Adverse Effects. This includes situations when the property is "known or thought to

have historic, cultural, or religious significance to a community, neighborhood, or social or ethnic group that would be impaired by its disturbance” (B)(3)(d). Part III, Section X underscores the need to make a systematic effort to find and consult with appropriate representatives when a demonstrable ethnic affinity exists between recovered human remains and living groups.

Protecting Historic Properties: A Citizen's Guide to Section 106 Review (2010)

This [Citizen's Guide](#) explains the Section 106 review process, who and what is involved, and how citizens can involve themselves in the review and influence decisions about federal projects that affect properties they value.

The guidance explains the process for becoming a "consulting party," other than those specifically named in the regulations, namely the SHPO, THPO, tribes, local governments, and applicants for federal assistance, permits, licenses, and other approvals. As noted earlier in this chapter, other individuals and organizations with a demonstrated interest in the project may participate in Section 106 review as consulting parties "due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties."

The FHWA, in consultation with the SHPO, and if on tribal land, in consultation with the THPO or tribe, decides who will be a consulting party. How to contact the ACHP and what to do when an agency is out of compliance with Section 106 is also included in the guide.

The FHWA provides an overview of consultation in its "[Section 106 Tribal Consultation Q&A](#)."

National Park Service Guidance

Archaeology and Historic Preservation: Secretary of the Interior's Guidelines for Archaeological Documentation

The [Archaeology and Historic Preservation Standards and Guidelines](#) stress that archaeological documentation needs to be "responsive to the concerns of local groups (e.g., Native American groups with ties to specific properties)." Archaeological research designs should provide for appropriate ethnographic research and consultation and should consider concerns expressed previously during identification and evaluation phases. If coordination with local or other interested groups had not previously occurred, the research design "should anticipate the need to initiate appropriate con-

tacts and provide a mechanism for responding to sensitive issues, such as the possible uncovering of human remains or discovery of sacred areas."

These guidelines can also be found in the *Federal Register*, vol. 48, No. 190, Thursday, September 29, 1983, pp. 44734-44737.

National Register Bulletin 15: Guidelines for Applying the National Register Criteria for Evaluation Bulletin 15 (Revised 1991)

[National Register Bulletin 15](#) contains guidance for assessing significance and integrity when evaluating a cultural resource's NRHP eligibility. Prehistoric archaeological sites are most often eligible for inclusion in the NRHP under Criterion D (information potential). Archaeological sites and other places significant to Native Americans also can be determined eligible for the NRHP under any of the other three criteria. For example, properties may have significance under Criterion A if they are associated with events, or series of events, significant to the cultural traditions of the community, under Criterion B if they are associated with individual Native Americans who made a specific important contribution to history or important mythological figures, or under Criterion C if the property demonstrates distinctive characteristics of a type, period or method of construction or possesses high artistic values, such as a petroglyph or pictograph site.

Religious properties (Criteria Consideration [a]) usually are not considered eligible for inclusion in the NRHP to avoid any "judgment by government about the validity of any religion or belief." These properties can be determined eligible, however, if they meet the requirements of Criterion Consideration (a), given in Bulletin 15, in addition to meeting one of the four NRHP Criteria *and* possessing integrity.

A Native American religious property can be eligible under Criterion A (Events) if it is significantly associated with traditional cultural values. A property or natural feature important to a traditional culture's religion and mythology is eligible if its importance has been ethnohistorically documented and if the associations are not so diffuse that the physical resource cannot be defined adequately. An example of this type of historic resource could be a natural feature from which a particular group is believed to have originated. Another criterion for which a Native American religious site could be eligible is association with a person important in religious history (Criterion B), if that significance has scholarly, secular recognition, or is important in another historic context, or if it can yield *important* information about the religious practices of a cultural group or other historic themes. Other Criteria Considerations,

as listed in Bulletin 15, could apply to places significant to Native Americans. Please refer to Bulletins 15 and 38 (mentioned below) for further discussion.

National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties

[National Register Bulletin 38](#) contains guidance for assessing significance in a historic property type called a Traditional Cultural Property or Place (TCP). Many Native Americans prefer “place” because “property” connotes ownership, a concept that is often antithetical to cultural beliefs. A TCP is generally defined as a place that is eligible for inclusion in the NRHP because it is associated with cultural practices or beliefs that are rooted in a community’s history, and are important in maintaining the cultural identity of that community. TCPs are associated with any kind of community: ethnic (e.g., a Jewish community in Florida), religious (e.g., Mormons), etc. Most identified to date are Native American sacred sites.

Often the community can only identify a TCP, or by certain members of the community, that ascribe significance to it, as there are often no associated physical characteristics that can be identified by the uninitiated.

A TCP must be a place, i.e., a physical location. Although intangible attributes are considered, purely intangible attributes are not TCPs. Evaluating and assessing the integrity of a TCP involves looking at the property through the eyes of the community that values it. The presence of a TCP does not need to be known prior to efforts to identify historic properties, since factors such as private acquisition, acculturation, or colonization might have restricted access to and knowledge of such places through time. Field visits may jog memories resulting in the identification of a place that meets the definition of a TCP.

<p>A TCP is eligible for the National Register if:</p> <ul style="list-style-type: none">• it meets at least one of the four evaluation criteria;• has integrity; <i>and</i>• is at least 50 years old, unless it is exceptionally significant.

A place that is not eligible for inclusion in the NRHP as a TCP may still be a place with cultural significance ascribed to it by a community and would be considered under other laws, such as NEPA or PRC [5097.9](#). Intangible values such as religious values and lifeways still require consideration under other statutes, such as AIRFA.

3.5.3 California State Law, Executive Order, and Policy Statements

Public Resources Code (PRC) 5097.9

The primary California state law guiding Caltrans Native American policies and practices is Chapter 1.75 of the PRC, [5097.9-5097.991](#), *Native American Historical, Cultural and Sacred Sites*. This law discusses the NAHC and its power, roles and responsibilities, mentioned earlier in the chapter. It also requires cooperation of state and local agencies with the Commission in carrying out its duties and prohibits a public agency from interfering with the free expression or exercise of Native American religion or causing severe or irreparable damage to any Native American “sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine” unless shown to be necessary for the public interest. The NAHC has the power to bring an action against a public agency if it appears that their actions will result in such damage.

Native American burials often are unmarked and thus disturbed during earth moving activities. Activities frequently undertaken by Caltrans are restricted in location so that avoidance of burials is difficult if not impossible. In the event that human remains, including isolated, disarticulated bones or fragments, are discovered during any Caltrans activity, whether it is during maintenance, construction, or an archaeological investigation, certain steps must be taken, following the provisions of [Health and Safety Code 7050.5](#) and PRC [5097.98](#), and/or PRC [5097.94](#) as provided below.

It is a felony to obtain or possess Native American artifacts or human remains from a grave or burial cairn except as otherwise provided by law or in accordance with an agreement reached pursuant to PRC 5097.94 or PRC 5097.98.

PRC 5097.94

Under PRC [5097.94](#) the NAHC also assists landowners in developing agreements with appropriate Native American groups for the respectful treatment and disposition of human remains. If such an agreement is desirable, the NAHC will provide a list of *all* Most Likely Descendants to be consulted regarding the agreement. All the Most Likely Descendants attest to this agreement by affixing their signatures to it. In the absence of such an agreement, the NAHC designates a Most Likely Descendent after the remains are discovered, and the steps outlined in PRC Section 5097.98 are followed.

PRC 5097.98

Under PRC [5097.98](#), the NAHC immediately designates a person or persons it believes to be the most likely descended from the deceased. Within 48 hours of being granted access to the site, the most likely descendent recommends means for treating and disposing with appropriate dignity, the human remains and associated items. If the NAHC does not identify the descendent, or the descendent does not make a recommendation, or the landowner does not accept the recommendation, and any mediation attempted fails to provide the landowner acceptable measures, the landowner must re-inter the remains on the property in an area not subject to further disturbance, and record the site with the NAHC or appropriate Information Center, and the appropriate county.

PRC 5099.991

PRC [5097.991](#) Repatriation of Native American remains and associated grave artifacts simply states that *“It is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.”*

Caltrans is in the process of repatriating human remains and associated items found in its curated collections. Since the mid 1970s, the wishes of the Most Likely Descendants for the treatment and disposition of human remains and associated burial items have been followed, and it is unlikely that any human remains have been retained. If human remains are discovered, however, in these collections, the remains will be repatriated.

Health and Safety Code 7050.5

If any human remains are discovered or recognized, Health and Safety Code [7050.5](#) requires that no further excavation or disturbance occur in the area and that the county coroner be called immediately. Within 24 hours of notification, the coroner calls the NAHC if the remains are known to be or thought to be Native American. Section 3.7.4 describes the process Caltrans uses when human remains are discovered.

Health and Safety Code 7054(c)

[Health and Safety Code 7054\(c\)](#) states that any person who deposits human remains in any place other than a cemetery is guilty of a misdemeanor. This law does not apply to the reburial of Native American human remains under an agreement between the landowner and the Most Likely Descendent developed pursuant to PRC 5097.94(1) or under PRC 5097.98.

California Native American Graves Protection and Repatriation Act of 2001

[Cal NAGPRA](#), as codified in the California Health and Safety Code Sections 8010-8021 and 8025-8030, provides for the repatriation of human remains and cultural items in the possession or control of a state or local agency or museum to California Indian tribes. As defined by this law, the term “California Indian tribes” includes non-federally recognized groups as entities that have standing under this law. The Act outlines inventory, summary and repatriation processes similar to the federal NAGPRA, establishes penalties and enforcement procedures for not complying, and establishes the Repatriation Oversight Commission.

Executive Order B-10-11

On September 19, 2011 Governor Brown signed [Executive Order B-10-11](#) which established the position of the Governor’s Tribal Advisor in the Office of the Governor to implement effective government to government consultation between the governor and tribes and ordered state agencies and department to engage in communication and consultation with California Indian tribes, which for the purposes of this order included federally recognized tribes and other California Native Americans. Additionally, the order also states that the Office of the Governor will meet regularly with elected tribal officials, and that state agencies and departments are to permit tribal governments to provide meaningful input into the development of legislation, regulations, rules and policies on matters that may affect tribal communities.

California State Transportation Agency November 2013 Draft Tribal Consultation Policy

In response to Executive Order B-10-11, the California State Transportation Agency (CalSTA)¹⁰ created a [draft policy](#) which endorses government to government communication with Tribes with a strong emphasis on fostering mutual respect among all parties. Five guiding principles were identified with input from Tribes-collaboration, communication, education; process and timely notice-to facilitate effective consultation practices and promote cooperation and efficiencies relative to tribal consultation. The principles embrace meaningful dialogues, open and respectful communication, education in the way of training of agency’s departments’ staff, transparent processes, and adequate advance notices of a request for consultation or meetings. For purposes

¹⁰ CalSTA was created during the reorganization of the Executive Branch of State government and seven transportation related agencies were placed under it, effective July 1, 2013.

of this policy, the terms “Tribe”, “California Indian Tribe,” and “tribal” include all Federally Recognized Tribes and other California Native Americans.

Caltrans’ Director’s Policy 19

In 2001, Caltrans Director Morales signed [DP 19](#), *Working with Native American Communities*, which stated that Caltrans will act consistently, respectfully and sensitively when working with all Native Americans in California and will work to remove regulatory, statutory and procedural impediments to do so. Caltrans is also to consult with tribes when making decisions, taking actions or implementing programs that may impact their communities.

3.6 Caltrans Native American Cultural Resources Policies

Caltrans cultural resources policy is to exercise all practical means to avoid, and if avoidance is not possible, to minimize adverse effects of transportation projects upon significant cultural resources. It also is Caltrans policy to avoid, or minimize, adverse effects to resources identified as important to the Native American community that may not be eligible for the NRHP but are important to maintaining the Native American culture. Such resources include plant or other gathering locations

Pursuant to the NHPA and Section 106 regulations, Caltrans consults with Indian tribes, other Native American groups and individuals, and traditional cultural leaders who are likely to have knowledge or concerns with historic properties in Caltrans right-of-way. Under PRC 5097, Caltrans works with the NAHC in its efforts to protect sacred sites, ensure Native Californians access to sacred sites, and provide for the respectful treatment of human remains and associated grave artifacts. FHWA and Caltrans also ensure that the appropriate Native Americans are consulted concerning sacred items or items of cultural patrimony as provided for in part by NAGPRA, prior to curating the rest of an archaeological collection. FHWA and Caltrans also ensure that Indian tribes and other Native Americans as appropriate are consulted per NAGPRA for excavations on federal or tribal lands. Caltrans policy is based on these laws.

To implement these policies, efforts to identify Native American concerns are conducted early in the planning stages of a project to ensure that Native American cultural values are considered.

Caltrans policy regarding different aspects of Native American involvement is outlined below according to subject. Implementation of these policies is addressed in Section 3.7.4, Procedures.

3.6.1 Consultation

It is Caltrans policy to consult with Indian tribes and other Native American groups and individuals on any proposed Caltrans project that may potentially affect historic properties or “cultural resources of interest to Native Americans.” See Section 3.1 for a definition of historic properties and historical resources, and [Exhibit 3.1](#) for definitions of consultation. “Cultural resources of interest to Native American” include resources that may not be eligible for inclusion in the NRHP or that would be considered historical resources under CEQA but are important to Native Americans in maintaining their culture. A location where plants used for food, basket materials, or medicinal purposes are gathered is an example of such a resource. The project area may be of known archaeological or Native American cultural sensitivity; however, the lack of known resources does not supersede the need for consultation.

Cultural Studies staff are encouraged to establish long term relationships with Indian tribes, groups, and individuals to establish mutual trust, provide for effective and efficient communication, and to better address concerns regarding projects, particularly those with short time frames.

Consultation, meaning conferring, begins early in, and continues throughout, the life of the project. Chapter 2 provides more detail on involving Indian tribes in the Section 106 PA process from the initial step of gathering information and developing the APE to consultation through the Resolution of Adverse Effects steps. Caltrans staff can consult with Indian tribes on developing and documenting an APE and should seek consistency with any pertinent guidance provided by tribes. Caltrans staff must consult with Indian tribes and other Native Americans through the identification, evaluation, findings and assessment of effects, including establishment of ESAs for a finding of No Adverse Effects, and resolution of adverse effects on properties which they may attach religious and cultural significance. Indian tribes and other Native Americans are also consulted during any review process for reevaluation, and during the reevaluation itself.

3.6.2 Monitors

As outlined in Division of Environmental Analysis Chief Gary R. Winters November 4, 2003 memo, it is [Caltrans policy](#) to have Native American monitoring in the following circumstances:

- During all Caltrans archaeological excavations at prehistoric or historic Native American sites, including Extended Phase I, Phase II and Phase III studies
- During construction or related activities at known site locations or in areas where there is a high probability that there may be a buried archaeological site based on the geomorphology of the area

3.6.3 Human remains/associated artifacts

On federal or tribal land, Caltrans complies with provisions of NAGPRA regarding the treatment and disposition of human remains and associated funerary objects when encountered during the course of an archaeological excavation or any ground disturbing activity. On state land, Caltrans confers with the Most Likely Descendent per PRC 5097.98 regarding the treatment and disposition of human remains and associated grave artifacts when encountered during the course of an archaeological excavation or any ground disturbing activity.

The NAHC maintains a Sacred Lands Inventory. All burials, reburials, and sacred, religious, or ceremonial sites should be recorded on the Sacred Lands Inventory Form, which is submitted to the NAHC. The template is available online at the Caltrans Division of Environmental Analysis (DEA) [Standard Environmental Reference Volume 2](#) website under Cultural Resources Templates.

3.6.4 Sacred Items/Items of Cultural Patrimony

Caltrans will follow the provisions of NAGPRA regarding the treatment of sacred items or items of cultural patrimony.

3.6.5 Avoidance of Traditional Cultural Properties

Where feasible, it is Caltrans policy to avoid cultural resources that are of value to Native Americans. Caltrans will make every effort to avoid burial areas, as well as sacred, religious or ceremonial sites. Where such sites cannot be avoided, Caltrans must identify Native American concerns, and agreement sought on the appropriate treatment.

3.6.6 Access to Sacred Sites

The NAHC 1979 report to the Legislature succinctly stated, "Equally important (as burials) to California Indians are those places of traditional, spiritual or social im-

portance (such as prayer sites, ceremonial sites and shrines), areas important in folklore and legend, or areas attributed with special or unique powers of sacredness. To ensure that Native American culture is not lost, it is essential for Indians to have continued access to traditional sacred places, many of which are located on lands now owned by non-Indians or are under control of various public authorities."

Pursuant to PRC [5097.9](#) and where feasible and appropriate, Caltrans ensures Native American access to such sites described above when they are located on Caltrans-owned land or are traversed by a State highway.

3.6.7 Access to Gathering Sites

Caltrans has a program to identify gathering locations within and adjacent to the Caltrans right-of-way and a policy to prohibit herbicides in these areas. Caltrans Maintenance, where possible, is willing to work out trimming plans that will assist in stimulating the necessary plant growth. Each District has Landscape Specialists who can work with DNACs and local Native Americans to discuss gathering and issue permits. This program undergoes an annual review process resulting in an Annual Vegetation Control Plan.

Native Americans gathering for religious purposes or for basket weaving materials may be issued either a Consent Letter or an encroachment permit. The appropriate Maintenance Area Superintendent Office issues a Consent Letter if only one day for gathering is requested. When gathering for more than one day is requested, the district permit office may require an encroachment permit. For additional information and requirements, see the Encroachment Permits Manual, [Section 508.11](#).

3.6.8 Confidentiality

Native Americans often are reluctant to reveal the location of a sacred or traditionally important site out of concern that the revelation may bring harm to that site or to the person who revealed the site's location, or would reveal the location of a scarce and precious resource to a competing interest. For instance, some basketweavers do not reveal the location of their gathering locations even to other basketweavers.

State and federal laws provide for protecting the confidentiality of this information, and productive consultation is dependent on maintaining this confidentiality. Therefore, if at all possible within the restraints of a given project, Districts need to develop innovative and flexible approaches to identify areas that should be avoided, without the requirement for complete location information. Environmental staff need to work with design engineers on approaches that would successfully avoid these sensitive

locations. If this is not possible, Districts must make every effort to ensure the confidentiality of obtained information is only disclosed on a "need to know" basis, including the exact locations of burials, or sacred, ceremonial or religious places.

Section 304 of the NHPA states that federal agencies can withhold from public disclosure information on the location, character, or ownership of a historic resource if that disclosure may cause a significant invasion of privacy, risk harm to the resource, or would impede the use of a traditional religious site by practitioners. When that information is developed to comply with Sections 106 or 110(f) of the NHPA, the Secretary of the Interior must consult with the ACHP concerning disclosure and who may or may not have access to that information.

Records maintained or in the possession of the NAHC or state and local agencies that are exempt from public disclosure include those that contain information on Native American graves, cemeteries, and sacred places, and records that relate to archaeological site information, including records obtained during consultation with Native Americans ([California Government Code 6254\(r\) and 6254.10](#)).

3.6.9 Possession, Curation, and Display of Artifacts

It is Caltrans' policy *not* to obtain human remains and associated grave artifacts, sacred objects or objects of cultural patrimony. *Human remains and associated grave artifacts recovered from state lands are respectfully treated and disposed of according to the wishes of the Most Likely Descendent*, whether the human remains and associated artifacts are discovered during fieldwork or post-fieldwork in the laboratory or during construction.

On private lands and upon consideration of the Most Likely Descendant's recommendations, the landowner determines the respectful treatment and disposition of the human remains and associated grave artifacts.

Following NAGPRA regulations, the custody of human remains and funerary objects discovered on federal or tribal lands goes to the known lineal descendent(s), or if lineal descendants are not known, in a specified order of priority. In order of priority, custody is with the:

- 1) Indian tribe, if discovered on tribal land
- 2) Tribe that can show the closest cultural affiliation
- 3) Indian tribe aboriginally occupying the land

4) Tribe that can show a stronger cultural relationship

As defined in the NAGPRA regulations, the appropriate tribe determines the treatment and disposition of the human remains. This usually is outlined in a pre-excavation Action Plan that was developed as a result of consultation.

It is Caltrans' policy to ensure that the appropriate traditional cultural leaders and groups determine the treatment and disposition of sacred objects and objects of cultural patrimony, as defined by NAGPRA. Although not covered by state law, sacred objects and objects of cultural patrimony, and the collections of which they are a part, will not be accepted for curation by curatorial facilities subject to NAGPRA regulations. Caltrans, therefore, repatriates sacred objects and objects of cultural patrimony. The custody of sacred objects and objects of cultural patrimony recovered from federal or tribal lands follows the order of priority specified above, and their treatment and disposition also is outlined in a NAGPRA Action Plan.

For all other cultural artifacts retrieved during Caltrans excavations, it is Caltrans' policy to ensure that the collections are properly curated following the federal curation regulations ([36 CFR 79](#)) for collections obtained from federal land under an ARPA permit, and following the State Historical Resources Commission's [guidelines](#) for all other collections. Caltrans will consult with appropriate Native American groups regarding such curation plans, as outlined in [36 CFR 800](#). Caltrans seeks public, private, or Native American-maintained repositories that provide secure permanent storage and ready access to users.

Caltrans will not display disinterred skeletal remains, grave artifacts, or other objects that Native Americans regard as traditionally sacred.

The appropriate Native American group must grant approval for the use of any photographs and detailed drawings of human skeletal remains, associated grave goods or sacred objects prior to their public display, or use for interpretive or reporting purposes. *The documentation of human remains should be included as a separate appendix to the main body of a report and should not be available for public distribution unless there is a scientific or cultural interest and when the Native Americans agree to publication.*

3.7 Procedures

Use the following procedures to:

- Comply with state and federal laws, regulations and guidelines regarding Native American cultural concerns
- Ensure Native American participation in the Section 106 process
- Identify cultural resources within Caltrans right of way that Caltrans will seek to protect

The procedures include those for consultation, hiring monitors, and discovery of human remains during any Caltrans activities.

District Cultural Resources staff or the District Native American Coordinator generally handles Native American coordination rather than Caltrans consultants. This avoids putting the consultant in a position of having to justify the Caltrans project or having to speak for Caltrans on issues of a sensitive nature. A consultant, however, is not precluded from coordination if district staff judge this to be appropriate.

For all projects that have the potential to affect resources of concern to Native Americans, the DNAC ensures that the NAHC is notified of the proposed project by providing information either by submitting the Native American Contacts List Request form, or by letter if more detail is necessary, with a Project Location map attached. The template is available online at the DEA [Standard Environmental Reference Volume 2](#) website under Cultural Resources Templates.

The NAHC will refer to the Sacred Lands Inventory file and notify the District within 10 working days of receipt if they have a record of a sacred land within the proposed project's Area of Potential Effects (APE); the NAHC also will provide a list of Native American contacts for consultation regarding cultural assessments of the project area. Depending on the preference of your district's NAHC program analyst, this exchange may be conducted by email, mail, or FAX.

Caltrans' efforts to consult with Native Americans and the results of that consultation must be summarized in the Section 106 documents used to document identification, evaluation, or treatment of archaeological sites or Traditional Cultural Properties.

3.7.1 Consultation

Consultation means that FHWA or Caltrans acting on its behalf confers with the tribes and interested persons on the proposed project and its potential for impacts on cultural resources within the project APE. Caltrans communicates any changes in the project APE to the tribes and interested persons. If some time has passed, contact the consulting parties again to see if any new information is available. Changes to the project and passage of time may require renewed consultation.

Caltrans can initiate consultation by various means for instance, by letter, telephone call, and personal visit or by a semi-annual notice. If there is no response to the initial contact, a telephone call or personal visit should be made. The amount of effort to consult should reflect the scope of the project and the degree of cultural sensitivity of the project APE. A phone call may be adequate. Other projects may involve more intensive and extensive consultation. The Districts should consider contracting with an ethnographer, if it appears appropriate to do so, if the project is complex or there are Native American issues.

Below is an example of one type of consultation record:

CONSULTATION LOG (DISTRICT-HWY-PM [EA])				
Date	Type of Communication	Name / Representing	Caltrans Representative	Comments
	Phone conversation, Face to face, FAX, email, etc.	Name, Name of tribe or group, position (representative, tribal chair, etc.)	Name, position	Describe who contacted whom and provide a brief explanation of what was discussed, transmitted, etc.

Successful consultation with tribal leaders, traditional leaders or elders often requires personal visits. A field review of high sensitivity project areas with representatives from the local Native American community may be necessary. In general, these reviews enhance the District's sensitivity to traditional values and land use practices, as well as sensitivity to features that are not readily apparent to the archaeologist or documented in the historic or ethnographic literature.

When consulting, Caltrans staff shall keep in mind cultural events that may be occurring throughout the year, as well the need for tribal groups to meet and discuss any information provided them or requested from them. These activities may delay a response. Also many tribal members or Native American consultants work on tribal

business with Caltrans and other agencies in addition to their regular occupations, and cannot respond within short time frames that agencies have frequently tried to impose on them.

Districts should strive to develop optimal relationships by talking to tribal leaders and other Native American groups and individuals and establish with them how best to consult. Each tribe, group, or individual has different protocols for interacting with agencies. These efforts, although perhaps extensive or intensive in the short run, should ultimately develop a good trust relationship and smooth the way for both Caltrans and the tribe and other consulting parties in future consultations.

Consultation means communicating to the Native Americans the purpose of the project, archaeological survey results, proposed excavations, and excavation results. Their concerns regarding historic properties or other cultural resources in the project area are solicited. Efforts should be made to work around their concerns if confidentiality is an issue, as discussed in Section 3.6.8. Caltrans provides documents upon request.

A summary of consultation must be included, or referenced if confidentiality is an issue, in Historic Property Survey Reports, subsequent 106 documents, and environmental documents as appropriate. The consultation log provided on the previous page may be used as the basics of the summary.

3.7.2 Obtaining a Monitor

The need for a monitor is identified during consultation with the affected Native American community. The Native American community and Caltrans confer on who is to monitor and serve as a liaison with Caltrans. It is [Caltrans policy](#) that the number of monitors present at any one time does not exceed the actual need as determined by the activit(ies) being monitored. If multiple communities are interested in monitoring, then a way to share the monitoring effort, for example alternate days, needs to be identified.

3.7.3 Hiring a Monitor

Note: The processes described in this section are administrative, so all hyperlinks are only accessible to Caltrans staff on the Caltrans intranet.

Three methods have been identified for contracting for Native American monitors, although none are perfect for the purpose, and each have limitations. Efforts are ongoing to rectify these problems. Ideally, contracts would be directly with the monitor

or with a Native American entity acting as prime. Alternatively, the monitors have been included as sub-contractors on the archaeological or construction contracts.

CAL-Card Process

A third way, provided that the cost and need limitations are met, is through the CAL-Card process, or absent a credit card mechanism, the process referred to variously as the U-5000, U-5, or non-credit card process. Of the two processes, i.e., the CAL-Card process or the non-credit card process, it is expected that the latter is more applicable unless the entity has a credit card issued from this program. The similarity between the CAL-Card and the non-credit card processes, is that the services, plus taxes, for either cannot total more than \$4999.99. The difference is that under the CAL-Card, the services can be of a repetitive nature as long as they do not exceed \$5,000 per fiscal year with the same vendor (i.e., individual or entity) for the same service (e.g., monitoring). Under the non-credit card process, the contracted services are for a single transaction, and the projected value of the service does not exceed \$5,000 or more in two fiscal years. If these limitations are not met, the formal service contract process (i.e., the ADM-360 process, see below) must be followed (Note: Do not split a service or transaction to meet these limitations as this circumvents the contracting process, and if discovered, would jeopardize the availability of this option for this use). The Caltrans Division of Procurements and Contracts CAL-Card Resources intranet website contains more information for Caltrans employees.

Formal Service Contract Process

The DNAC or project archaeologist initiates the formal service contract process by submitting a Service Contract Request to the district's contract unit ([ADM-0360](#)). Unless the requested contract is with a federally recognized tribe, a non-competitively bid justification ([ADM-3007](#)) is included in the ADM-0360 (ADM-3007) is included in the ADM-360 package. Currently, Caltrans has a non-competitive bid authorization and advertising exemption for contracting with federally recognized tribes for activities associated with environmental activities that include monitoring archaeological excavations and construction, when appropriate. CSO is pursuing with Headquarters Division of Procurement and Contracts a request for an exemption from competitive bid and advertising for contracts with other Native Americans. But until this is awarded, the non-competitively bid justification needs to be included in the contract request.

Costs should be charged to the project for which the Monitor is hired.

Monitoring Agreement

The job description, procedures, and expectations may be outlined in a monitoring agreement. The Monitoring Agreement includes as appropriate:

- Chain of command
- Glossary of terms used if necessary
- Locations to be monitored (include a map)
- Rate of hourly pay, mileage and per diem if appropriate
- Number of days prior to a monitoring start date needed for notification of that start date
- Statement whether the notification will be in writing (preferable)
- Actions to be taken if the designated monitor does not show up when requested
- Notation that the appropriate laws will be followed in the event that human remains are unearthed
- Reference to [Caltrans Director's Policies](#) and Deputy [Directives](#) on Workplace Violence (DP-18-R1), a Drug-Free Workplace (DD-08-R3), and Sexual Harassment (DD-49-R4).

The DNAC or lead project person approves any timesheets and travel expense claims submitted by the monitor, and submits the documents to the accounting office, ensuring payment in a timely fashion. As with all contractors, unsatisfactory performance is documented and reported to the District Environmental Branch Chief (EBC).

3.7.4 Human Remains/Associated Artifacts

The following steps must be followed to comply with PRC 5097.98 when human remains, including disarticulated bone, are encountered during an archaeological excavation, construction, maintenance or encroachment permit work on state owned land:

- Caltrans shall cease work in the vicinity of the human remains.
- The lead person on the project (for instance, field director, resident engineer, maintenance supervisor, or permit engineer) ensures that the EBC or DNAC is immediately contacted.
- The lead person, EBC or DNAC telephones the [County Coroner](#) and the NAHC. Although the Coroner has the ultimate responsibility to contact the NAHC, Caltrans calls the NAHC at this time to provide information on the discovery, and to assure the NAHC that appropriate action is being taken. The Coroner may or may not inspect the remains. If the Coroner inspects the remains and determines that the remains are not Native American and/or determines they are a result of

wrongful death, the Coroner may take possession of the remains for further inquiry, release them to next of kin, or order the body to be reinterred. After the above action has been taken, work may resume on the excavation project.

- If the Coroner determines that the remains are Native American, the Coroner notifies the NAHC of the findings. The NAHC immediately notifies the Most Likely Descendent.
- The Most Likely Descendent inspects the remains and makes a recommendation to the lead person on the treatment of remains and associated grave goods.
- The lead person ensures that the recommendations are followed. After the appropriate actions are taken, the excavation work may resume.

Chapter 4: Cultural Resources Identification

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Chapter 4:

Cultural Resources Identification

4.1 Introduction

This chapter discusses the general process of identifying cultural resources, those processes that pertain to properties requiring consideration under [Section 106](#) of the National Historic Preservation Act (NHPA). It discusses establishing an undertaking and defining an Area of Potential Effects (APE), then describes the types of properties requiring study, the appropriate cultural resources staff to conduct those studies, and the process for beginning background research and conducting initial surveys. It also includes a brief general discussion of conducting evaluations and preparing documents, referring to [Chapters 5, 6, and 7](#) for specific direction on evaluation by discipline and resource type. The same general process is also used for compliance with CEQA and, when state-owned resources are involved, California Public Resources Code [\(PRC\) 5024](#). [Exhibit 4.1](#), the Cultural Resources Process Checklist provides guidance for the initial steps in checklist form. While it is not necessary to complete the checklist for record-keeping purposes, some staff might find it helpful to do so.

This chapter also provides guidance on compliance with the terms of the Section 106 Programmatic Agreement ([Section 106 PA](#))¹, which went into effect on January 1, 2014, and the PRC 5024 Memorandum of Understanding ([5024MOU](#))². The Section 106 PA governs all undertakings under the Federal-Aid Highway Program in California, which means that all Caltrans projects with Federal Highway Administration (FHWA) involvement now follow the Section 106 PA instead of 36 CFR 800, except where the Section 106 PA itself directs otherwise. The attachments to the Section 106 PA also provide general guidance that Caltrans follows on non-federal projects. When state-owned historical resources are located within the Project Area Limits of a project or activity that is not a federal undertaking, the 5024 MOU and its attachments performs essentially the same functions as the Section 106 PA.

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

² *Memorandum of Understanding Between the California Department of Transportation and the California Historic Preservation Officer Regarding Compliance with Public Resources Code 5024 and Governor's Executive Order W-26-92*, effective January 1, 2015.

Under the Section 106 PA and the 5024 MOU, Caltrans cultural resources staff who have been trained in implementation of the Section 106 PA, meet the professional qualifications standards described in [Section 106 PA/5024 MOU](#) Attachment 1, and have been certified by the Cultural Studies Office (CSO) are deemed to be Professionally Qualified Staff (Caltrans PQS) who may conduct specified activities under the Section 106 PA.

The Caltrans PQS designation applies to Caltrans staff *only*.

Appropriately qualified consultants, while not certified by Caltrans as PQS, may conduct cultural resources surveys, exempt properties in accordance with [Section 106 PA/5024 MOU](#) Attachment 4, and prepare documents, as long as Caltrans PQS oversee their activities. All work under the Section 106 PA, whether by Caltrans PQS or by consultants, must be reviewed and approved by Caltrans PQS, in addition to any other approvals, before it is considered final.

4.2 Establish Undertaking

The Project Development Team (PDT, defined in the [Project Development Procedures Manual](#)) identifies any federal involvement on a project and determines the existence of an undertaking subject to Section 106.

Undertaking, as defined by the 1992 amendments to NHPA, means any project, program, or activity with federal funding or under the direct or indirect jurisdiction of a federal agency, including federal license, permit, or approval, or administered pursuant to federal agency delegation or approval.

Undertakings that may result in changes in the character or use of historic properties, regardless of whether any such properties are known to exist, are subject to Section 106. The federal *action* defines the undertaking, not the anticipated presence or absence of historic properties.

When the PDT has determined that a project is an undertaking subject to Section 106, it is the responsibility of Caltrans PQS to determine whether the undertaking can be screened in accordance with Section 106 PA [Attachment 2 \(Exhibit 1.1\)](#) and Section [4.2.1](#), below, or if it is an undertaking requiring studies, Section [4.2.2](#), below. Under CEQA and for state-only projects, the term undertaking is not used, but the process is the same.

Other federal agencies may have involvement that would constitute an undertaking with or without FHWA participation. For example, a federal agency's permit requirement, such as a Forest Service or Bureau of Land Management use permit, would also trigger Section 106. When CSO, as assigned by FHWA, is the lead agency, other agencies may fulfill their Section 106 responsibilities for the undertaking by using applicable provisions of the Section 106 PA, at CSO's discretion.

4.2.1 Screened Undertakings

Not all undertakings have equal potential to affect historic properties. The Section 106 PA allows Caltrans PQS to screen certain specific types of individual undertakings with low potential for effect, and if appropriate, to determine them exempt from further review or consultation under Section 106. Section 106 PA [Attachment 2](#) lists 30 classes of undertakings that appropriately qualified Caltrans staff may screen; for historic bridges and tunnels, see [Exhibit 7.3](#) for a list of undertakings that can be screened.

Caltrans uses the same process for screened undertakings for state-only projects. For projects and activities with state-owned cultural resources there are similar classes of projects and activities that are found in the [5024 MOU Attachment 2](#).

There are restrictions on the screening process:

- It must be done in accordance with the terms of Attachment 2, and only Caltrans PQS may conduct it.
- Only the listed undertakings, or a combination of those listed undertakings, may be screened.
- If a project includes any elements other than those listed, it will not qualify for screening.
- All features of the undertaking must be identified prior to screening, and any subsequent changes or addition of features to the project may require that the undertaking be re-screened.
- If conditions must be imposed on an undertaking to ensure that potential historic properties would not be affected (e.g., fencing to protect an archaeological site), an undertaking will not qualify as exempt from further review.

Caltrans PQS conduct the screening by first examining the undertaking to determine if it meets the classes of screened undertakings. They then follow one or more of the screening procedures described in [Section 106 PA/5024 MOU Attachment 2](#), as appropriate to the undertaking, the area, and the potential for historic properties to be present. The Cal-

trans PQS may conduct a field review, examine project plans, consult with knowledgeable people, or review relevant documents, such as previous studies, maps, or photographs of the project area. The extent of the screening effort should be in proportion to the complexity, scale, and location of the undertaking and the potential for historic properties to be present and to be affected.

If the undertaking meets the requirements of [Section 106 PA/5024 MOU Attachment 2](#), and the screening process reveals there is *no* potential for historic properties to be affected, the Caltrans PQS may determine that an undertaking is exempt from further review.

If the project fails to meet the requirements of Section 106 PA/5024 MOU Attachment 2, if conditions must be imposed on the project to ensure that properties would not be affected, or if the Caltrans PQS determines that there is some potential for historic properties to be affected, the undertaking is subject to further review and consultation, and it may require cultural resources studies, as described in Section [4.2.2](#), below.

Caltrans PQS at any level of certification may conduct screening; however, other Caltrans PQS of different levels or qualifications are to be consulted as needed to ensure that the screening process is conducted and concluded appropriately.

Caltrans PQS exercise their professional judgment in conducting the screening process, and they must not allow either external or internal pressures to influence their decisions. The outcome of the screening process must be objective and defensible, as conclusions will be included in the Section 106 PA's or the 5024 MOU's Annual Report and are subject to audit. Failure to comply with the standards set in Attachment 2 could jeopardize Caltrans' continuing use of the Section 106 PA and the use of the 5024 MOU.

The Screened Undertaking memo for the project manager and files, which the Caltrans PQS has signed, constitutes the only documentation necessary for screened undertakings that have been determined exempt from further review. By signing this documentation, the Caltrans PQS commits Caltrans to the finding that the undertaking qualifies as exempt in accordance with Section 106 PA/PRC 5024 Attachment 2. This documentation completes the Section 106 process for the undertaking; however, any subsequent changes to the project may require re-screening to determine if the undertaking as modified still meets the requirements of Attachment 2. See [Exhibit 2.5](#) for guidance on preparing the memo.

4.2.2 Undertakings Requiring Studies

When Caltrans PQS determine that an undertaking may require cultural resources studies, the Caltrans PQS forwards project to the District Environmental Branch Chief (DEBC) and the District Heritage Resource Coordinator (HRC), who are jointly responsible for determining which cultural resources studies are required for a given project and for coordinating any required work with the appropriate cultural resources specialists. Caltrans PQS then proceed in accordance with the direction below, beginning with defining an APE or Study Area in conjunction with the Project Manager.

4.3 Define APE or Study Area

The Area of Potential Effects (APE) is the area within which an undertaking may directly or indirectly cause changes in the character or use of historic properties, should any be present. Setting an APE is a prospective activity, and the known or suspected presence or absence of actual historic properties is irrelevant at this stage. Establishing the APE is the first step in determining the scope of identification efforts, and it is a prelude to initiating cultural resources surveys (see Chapter 2 [Section 2.3.3](#) and Section 106 PA [Attachment 3](#) for additional guidance). Similarly, Caltrans follows the same process for CEQA and PRC 5024 compliance, except that the area is called the Project Area Limits (PAL); see [Chapter 2 Section 2.7.3](#) for CEQA; [Chapter 2 Section 2.8.2](#) and [5024 MOU Attachment 3](#).

Under the Section 106 PA, Caltrans has been delegated the authority to set APEs, and when the guidelines set forth in Attachment 3 are followed, project-specific consultation with the State Historic Preservation Officer (SHPO) regarding APE and level of effort will typically not be necessary. Similarly under CEQA and the terms of the 5024 MOU for state-owned cultural resources, Caltrans has the authority to set PALs.

The Caltrans Project Manager and Caltrans PQS are jointly responsible for establishing the APE and for signing the APE map for any undertakings.

In practice, it is often useful for the DEBC and HRC, in consultation with the PDT, to designate a Study Area early in the process when detailed project information is not yet available or project limits may be subject to change. This preliminary Study Area should encompass all properties that could potentially end up within the APE, and it should be revised as project details are developed. The final APE will include only those properties

that are found to be subject to potential effects as a result of the undertaking's final design.

An APE may encompass the right of way or an area either more or less than the right of way, depending on the undertaking's potential for effects. Effects to be considered can be both *direct* and *indirect*. They may include direct effects such as physical damage to or destruction of a property, alterations, or moving or realigning a historic property; or they may include indirect effects such as isolating a property from its setting; visual, audible, or atmospheric intrusions; shadow effects; vibrations; or change in access or use.

The guiding principle on delineating an APE is that it should be commensurate with, and provide for, an appropriate level of effort to take into account an undertaking's potential for effects on historic properties.

The final APE map should be drawn to encompass the whole, or the reasonably anticipated boundaries, of historic properties that are subject to effect. APE maps must be of a scale suitable to depict the boundaries of major project features (e.g., right of way and edge of pavement) relative to the boundaries of any identified cultural resources.

If there is a large potential resource such as a historic district or long linear property extending into or through the APE, the entire resource must be considered as a whole, and the property within the APE must be considered in the context of the whole property. However, very large properties need not be recorded beyond the area reasonably subject to effect, nor does the APE need to be extended to include entire large or complex resources where potential effects on the whole would clearly be negligible. For example, the APE would not encompass boundaries of archaeological sites that extend for a considerable distance beyond the area to be affected, such as may be the case with lithic scatters in the California desert.

The final APE map must be formally designated by the time the Historic Property Survey Report (HPSR) is complete, and the map will appear as an exhibit in the HPSR. The same procedures are followed for state-only projects, but the limits are called Project Area Limits instead of APE.

For particularly complex projects, consultation with SHPO early in the scoping process is recommended to ensure that the APE is adequate for consideration of the project's potential effects. SHPO consultation may be initiated through the Section 106 Programmatic Agreement and Coordination Branch (Section 106 Branch) Chief in CSO. Coordination

with CSO is also encouraged when setting APEs that address issues of logical termini or independent utility. In both instances, contact the CSO Section 106 Branch Chief to arrange for the consultation.

4.3.1 Direct APE

The Direct APE is the area that potentially would be directly and physically impacted by the project. It is the APE most commonly used for archaeological studies; on occasion, architectural and historical studies may be also limited to a Direct APE. Typically, this is the right of way that will be used for the project, plus any ancillary areas subject to project-related ground-disturbing activities, such as slope and drainage easements, storm water detention basins, off-site biological mitigation sites requiring ground disturbance, mandatory borrow and disposal sites, construction easements, utility relocations, access roads, and equipment storage areas.

If any portion of an archaeological site extends into the project area and is subject to effect, the APE will generally be extended to encompass the entire site. However, testing of such sites must be focused on areas subject to reasonably foreseeable effects of the undertaking and should be guided by a project- or site-specific research design. Areas unlikely to be affected should not be tested unless compelling reasons to conduct such testing are provided in the research design.

The Area of Direct Impact, or ADI, is sometimes used to describe known areas of planned direct impact, such as those depicted on engineering plans. It does not, however, have any regulatory standing nor is it necessarily synonymous with the Direct APE, which encompasses all areas with the potential for direct impact. The Direct APE, for example, may include not only the ADI, the areas of planned disturbance as shown on project maps, but also the right of way reasonably subject to construction activities, such as areas where construction vehicles may operate or cause ground disturbance. When delineating an ADI, ensure that it is entirely within the project's overall APE.

The full extent of potential direct effects must be considered in establishing the APE, including the depth of any proposed ground disturbance as well as the horizontal extent of project activities.

4.3.2 Indirect APE

The Indirect APE is usually larger than the Direct APE and may extend beyond it to encompass additional properties that could be affected indirectly by the project. Indirect effects may extend beyond the project's footprint to encompass visual, audible, or atmos-

pheric intrusions; shadow effects; vibrations from construction activities; or change in access or use.

Not all projects have potential for indirect effects, and in such cases, built environment and archaeological properties will have the same APE.

Indirect effects are more likely for projects that involve acquiring new right of way, constructing new facilities, expanding capacity, or changing land use. The first row of properties that would be adjacent to the right of way when the project is *completed* should be considered for potential for indirect effects and included in the Indirect APE if warranted. Construction on new alignment, new interchanges, or elevated sections of roadway may have additional potential for indirect effects that could extend well beyond that first row of adjacent parcels.

Built environment properties are more likely than archaeological sites to be subject to indirect as well as direct effects. However, if an archaeological site has other values beyond information potential, or if a proposed project has a potential to cause indirect effects to an archaeological site, such as by creating new public access to the site, an archaeological site may be included within the Indirect APE. Traditional Cultural Properties, and under CEQA tribal cultural resources, may also have values subject to indirect effects, and consultation with tribes or other potentially interested parties must then be conducted to ensure that the APE encompasses such resources.

The Indirect APE must be set to take into account potential audible and visual effects, the proximity and use of adjoining properties, surrounding topography, and aspects of a property's setting.

No single rule of thumb can be followed in establishing APE limits.

The current assessor's parcel is normally used to define the boundaries of each property, but when a property that had a different configuration historically has been identified, the historic boundaries should be used to define inclusion within the APE, regardless of the current legal parcel boundaries. Large rural parcels, historic districts or landscapes, or extensive linear systems need not be included in their entirety if project effects on the property as a whole would clearly be negligible.

4.4 Begin Identification

Resources identification should begin as early as possible in the planning process, once a Study Area has been defined or an APE established. The goal of this initial phase is to:

- Identify cultural resources that may require consideration.
- Eliminate properties that are exempt under Section 106 PA [Attachment 4](#) or 5024 MOU [Attachment 4](#), as applicable.
- Determine whether technical studies are needed.
- Determine what kinds and levels of expertise will be required to conduct any needed technical studies.

Identification at this stage means determining whether any properties requiring cultural resources studies are present and potentially could be affected by a project.

The first step is to examine the APE for the types of properties that could possibly meet National Register of Historic Places ([NRHP criteria](#)) without guessing or assuming in advance which properties are significant.

The initial identification phase, therefore, needs to be broad and prospective in nature. When the DEBC and HRC have determined that the project is an undertaking requiring cultural studies, Caltrans PQS or appropriately qualified consultants begin the identification process for properties within the project APE or Study Area, in accordance with the direction below.

Identification efforts need to take into account all types of cultural resources that have potential to be considered historic properties, but not all cultural resources have that potential or require study.

The term “cultural resources” is broad, not evaluative or implying significance. It means any tangible or observable evidence of past human activity, *regardless of significance*, found in direct association with a geographic location, including tangible properties that possess intangible values. A critical part of this early identification phase requires distinguishing between properties needing studies and those that do not.

Only those properties that are of a type with potential for significance require such studies. Properties listed under Section 106 PA/5024 MOU Attachment 4 as typically exempt from evaluation may be reviewed, investigated to the extent necessary, and dismissed by

appropriately qualified Caltrans PQS, or by consultants meeting the same qualifications, without further review or consideration, as outlined below.

4.4.1 Properties Exempt from Evaluation

4.4.1.1 Section 106 Programmatic Agreement Exemptions

Section 106 PA [Attachment 4](#) identifies certain specific classes of properties as typically not requiring recordation, evaluation, or further review. These are properties that categorically possess little potential to meet NRHP criteria. Cultural resources laws and regulations do not require expending time and money recording and evaluating such properties, nor is there demonstrable public benefit in doing so. It is reasonable and prudent to concentrate, instead, on the identification of resources that do have potential for eligibility.

Section 106 PA [Attachment 4](#) lists the properties that may be determined exempt from review and gives the professional qualifications necessary for exempting the various property types. These include properties that are

- Type 1: Minor or ubiquitous.
- Type 2: Less than 30 years old.
- Type 3: So altered as to appear less than 30 years old.
- Type 4: 30 to 50 years old.
- Type 5: Moved within the past 50 years.
- Type 6: Substantially altered properties that are over 30 years old.
- Type 7: Post-World War II builders' houses and housing tracts

Only appropriately qualified Caltrans PQS (see Section 106 PA [Attachment 1](#)), and consultants who meet the same standards at the appropriate level, are authorized to exempt properties under Attachment 4. Consult the attachment for the full definition and listing of exempt properties, but in summary, properties that may be determined exempt.

Caltrans PQS at the Co-Principal Investigator level and above, and at the architectural historian level and above, and qualified consultants meeting the same standards, are authorized to exempt architectural and historical properties under types 1, 2, and 3. Only Caltrans PQS at the architectural historian level and above, and qualified consultants meeting the same standards, can exempt properties under types 4, 5, and 6.

The process for determining that properties qualify as exempt usually will require minimal effort, often just a quick review of existing documentation such as assessor's records or maps, a walkover, or a windshield survey. Other times, it may require more research, detailed investigation, or consultation with other specialists to determine whether or not a property qualifies as exempt.

Once appropriately qualified Caltrans PQS or qualified consultants have exempted properties in the APE, the properties can be dismissed without further review or consideration. The decision does not require explanation or property-by-property documentation, only the professional judgment of appropriately qualified Caltrans PQS or consultants.

Use Section 106 PA [Attachment 4](#) carefully, noting the exceptions and qualifying wording. It is especially critical to note that the listed properties are *not* exempt if they do not meet the criteria in Attachment 4.

If the Caltrans PQS or qualified consultant can reasonably determine that a property has potential to possess significance or if it could potentially contribute to the significance of a larger property such as a historic district or landscape, it is not exempt.

Consultants shall be expected to meet the same standards and requirements as Caltrans PQS; they should not be held to either a greater or lesser level of effort than Caltrans PQS in exempting properties. Neither consultants nor Caltrans PQS are required to record or document exempt properties in any way, except as they responsibly deem necessary. Exempt properties need not be listed, mapped, or evaluated, nor should they be individually addressed in the technical studies. A statement that “consistent with Section 106 PA Attachment 4, properties/ other properties are exempt from evaluation,” is all that is required to be included in the technical studies.

If the Caltrans PQS or consultant determine, for good and sufficient reason, that individual recordation of an exempt property is warranted, the level of documentation should be commensurate with the nature of the property. In some situations, there may be a professional or ethical responsibility to record a resource that is exempt under the Section 106 PA, such as when it is required by an Information Center. Documentation may also be appropriate in other instances, such as to avoid the later “discovery” of an exempted archaeological feature during construction. In that case, archaeological site record forms (e.g., DPR 523 Primary Record Form and Location Map), or database entry may consti-

tute an adequate record. In general, however, exempt properties do not warrant any level of recordation.

In situations where the Section 106 PA does not apply, such as on Tribal Lands, the Caltrans PQS or qualified consultant should use a Letter Report. See [Exhibit 6.1](#) for guidance. Letter Reports are used solely for exempting properties from evaluation when the Section 106 PA does not apply; they are not used for any other purpose.

Do not discuss exempt properties in the HPSR, as in accordance with the Section 106 PA, SHPO does not review Caltrans findings of properties that have been exempted. Evidence that Caltrans has used the exempt properties stipulation of the Section 106 PA typically can be handled by simply checking the appropriate box of the HPSR form or by including the statement, “consistent with Section 106 PA [Attachment 4](#), properties/ other properties are exempt from evaluation,” in a narrative text version of the HPSR (See [Exhibit 2.6](#)). Public Resources Code [5024\(a\) and \(b\)](#) requires Caltrans to inventory the structures it owns. For this reason, when Caltrans-owned resources are exempted from further evaluation, a copy of the HPSR, or Historical Resources Compliance Report (HRCR) for state-only projects with the appropriate checked box or exempting statement, needs to be sent to the Chief of the Built Environment Preservation Services Branch (BEPS) in CSO. See [Exhibit 2.14](#) for guidance on completing HRCRs.

Contact the CSO Section 106 Branch Chief for any questions concerning the applicability of the Section 106 PA Attachment 4 to specific properties.

Interstate Highway Exemption

Pursuant to federal law, under 23 USC 103(c)(5)(A)-(C), the Interstate Highway System is exempt from Section 106, except for individual elements that have been determined by the Secretary of Transportation to have national or exceptional historic significance and are considered historic properties for Section 106 and Section 4(f) purposes. The exemption embodies the view that the Interstate System is historically important, but only certain particularly important elements of that system... The exemption takes no position on the eligibility of the Interstate System as a whole.”

See [Chapter 2 Section 2.2.7](#) for a discussion of this exemption. Much of the Interstate Highway System in California is already exempted from evaluation because it meets the conditions outlined in Section 106 PA [Attachment 4](#). In a few cases, however, portions of the system that are 50 years old or older may have historic values *other* than associa-

tion with the Interstate Highway System. Contact the CSO Section 106 Branch Chief for any questions concerning the applicability of this Exemption.

The Interstate Highway exemption is for federal undertakings only and does *not* exempt Caltrans from compliance with CEQA, PRC 5024 or other state laws and regulations.

On occasion it may be necessary to evaluate portions of the Interstate System that do not meet the conditions outlined in Section 106 PA Attachment 4, and that may have historic values other than association with the Interstate Highway System.

4.4.1.2 PRC 5024 MOU Exemptions

State-owned cultural resources may be exempt from evaluation when they meet the criteria outlined in [5024 MOU Attachment 4](#). The difference between the Section 106 PA and the 5024 MOU is that Resource Types 3 through 7 in Attachment 4 need to be recorded on an abbreviated DPR 523A Primary Record that is either included in or created by the Caltrans Cultural Resources Database (CCRD). This recordation is required for Caltrans property management purposes, such as planning for future surveys and survey updates.

See [Exhibit 4.4](#) for information on recordation.

4.4.2 Properties Requiring Study

When a project area may contain properties that are not exempt under Section 106 PA [Attachment 4](#) and therefore require studies, the DEBC and HRC must consider the nature of the potential historical associations to determine the level of identification effort and evaluation, as well as which cultural resources specialists will be required to conduct these activities. Appropriately qualified Caltrans PQS or consultants shall then proceed with identification efforts.

The Caltrans PQS or consultant shall make a reasonable and good faith effort to identify historic properties. This effort may include:

- Background research.
- Consultation with knowledgeable individuals.
- Oral history interviews.
- Field survey.
- Consultation with Native Americans who may attach religious and cultural significance to properties in the project area.

The effort shall take into account past planning, research, and studies; the magnitude and nature of the undertaking; the degree of federal or state involvement; the nature and extent of potential effects on historic properties; and the likely nature and location of potential historic properties.

Project areas that had been previously surveyed may require resurveying under certain circumstances, such as when conditions have changed, earlier studies do not appear adequate for the current undertaking, or previously surveyed properties have since turned 50 years old. The passage of time, changing perceptions of significance, past errors of judgment, or reduction in the number of similar resources may all be cause for resurveying.

Cultural resources may be found significant for a variety of reasons that include their history, architecture, archaeology, engineering, and cultural associations as defined in the NRHP Criteria for Evaluation. The following discussion divides the universe of cultural resources into broad categories that correspond with the types of expertise typically needed to evaluate such properties. Those categories include:

- *Prehistoric archaeological resources*: evaluated by prehistoric archaeologists, in consultation with Native Americans.
- *Historical archaeological resources*: evaluated by historical archaeologists, sometimes in collaboration with architectural historians.
- *Built environment resources*: evaluated by architectural historians, and sometimes by historical archaeologists in collaboration with architectural historians.
- *Traditional Cultural Properties and under CEQA tribal cultural resources*: evaluated by prehistoric archaeologists or ethnographers in consultation with Native Americans, historical archaeologists, or architectural historians, depending on the property's potential values.

4.4.2.1 Prehistoric Archaeological Resources

Prehistoric archaeological resources are typically sites, activity areas, and ruins either predating or immediately postdating non-Native American entry into the region, characterized by material residues of substantially Native American origin. Prehistoric archaeologists are the cultural resources professionals who are trained to investigate these sites.

Prehistoric archaeological remains may be in the form of deposits of cultural material or features found in ground or on its surface, or they may be districts composed of groups of

prehistoric archaeological sites. Specialists trained in the field of prehistoric archaeology should record these resources during archaeological surveys and evaluate them as necessary.

Prehistoric archaeological sites are typically distinguished from isolated finds by criteria such as the density of cultural materials present. Sites generally have concentrations of material that can be distinguished from isolates and extensive very low density scatters (so-called "background noise") common in some parts of the state such as the Modoc Plateau and Long Valley. Isolates are exempt properties that generally do not merit recordation, as discussed above in Section [4.4.1](#). Their notation in the Archaeological Survey Report (ASR), without formal recordation, typically exhausts the research value and potential significance of isolates; see [Exhibit 5.1](#) for additional guidance.

Qualified prehistoric archaeologists evaluate prehistoric archaeological resources, in consultation with Native Americans. [Chapter 5](#) provides guidance on the procedures to follow in recording and evaluating prehistoric archaeological resources.

Some sites may have traditional cultural values or other intangible values ascribed to them by Native Americans. Prehistoric archaeologists incorporate these values into the site's identification and as prescribed during consultation. The expertise of a Caltrans PQS or consultant with training or experience in ethnography or other specialty may be required. Some sites with traditional cultural values may meet the definition of a Traditional Cultural Property, or under CEQA a tribal cultural resource (see below).

The value that Native Americans may ascribe to a site because of burials or skeletal remains transcends the NRHP criteria. Consultation with Native Americans on the appropriate treatment of the burials or remains and associated objects must occur. This consultation is conducted by a prehistoric archaeologist, usually in tandem with studies conducted on an archaeological site. [Chapter 3](#) provides further discussion addressing sites with Native American traditional cultural values and human remains and Native American Traditional Cultural Properties or under CEQA tribal cultural resources.

4.4.2.2 Historical Archaeological Resources

Historical archaeological resources are sites, activity areas, cultural landscapes, and ruins of buildings and structures, where the *location itself* possesses archaeological value, regardless of the significance of any existing standing building or structure. They are properties that possess some kind of cultural deposits or complex of features, whether subsurface or buried, whose primary value is in archaeological research.

Qualified historical archaeologists evaluate historical archaeological sites and activity areas. Qualified architectural historians or historical archaeologists, or both as a team, may evaluate other resources such as landscapes, cemeteries, battlegrounds, mines, canals, roads, trails, farms, and ruins, depending on the applicable potential NRHP criteria. Examples of ruins would include a building without a roof and with two or more collapsed or missing walls, an abandoned ditch system that can no longer convey water, and the foundations of a gold mining and milling operation. [Chapter 6](#) provides guidance on the procedures to follow in recording and evaluating historical archaeological resources.

Historical archaeological resources should be noted in the ASR and formally recorded if appropriate. Some types of historic deposits and features are exempt properties that generally do not merit recordation, evaluation, or further review, as discussed above in [Section 4.4.1](#). The lack of clearly defined associations, loss of integrity, or very low density of materials can distinguish these from historical archaeological resources. Some examples of exempt properties are refuse materials tossed by the roadside, isolated historic items, and mixed deposits of modern and historic materials.

4.4.2.3 Built Environment

The built environment consists of intact buildings, structures, objects, and associated features; non-archaeological sites, and districts composed of these resources. Most built environment properties can be identified when conducting a windshield, or reconnaissance, survey; others become apparent through background research. Built environment properties typically are visible in aerial photographs and appear on APE maps that delineate buildings and structures by their footprints.

The built environment includes resources such as designed and vernacular landscapes, cemeteries, mines, locations of important historic events such as treaty signings, and other locations. When these properties may include historical archaeological or other cultural values, their evaluation may require the collaboration of architectural historians and historical archaeologists.

Qualified architectural historians record and evaluate built environment resources. There are instances where qualified historical archaeologists may also record and evaluate built environment resources. When these properties may include historical archaeological or other cultural values, their evaluation may require the collaboration of architectural historians and historical archaeologists. [Chapter 7](#) provides guidance on the procedures to follow in recording and evaluating built environment resources.

Some built environment property types do not merit recordation, as discussed above in Section [4.4.1](#).

4.4.2.4 Traditional Cultural Properties and Tribal Cultural Resources

Traditional Cultural Properties (TCPs) are a special category of cultural resources that are associated with the traditional cultural practices or beliefs of a living community. They may consist of buildings, structures, objects, sites, or districts that are rooted in a traditional community's history *and* are important in maintaining the continuing cultural identity of that community. TCPs may also be the locations of important events that contain no physical remains, such as a location associated with the traditional beliefs of a Native American group about its origins, cultural history, or the nature of the world. They are typically identified through background research and oral testimony. “Properties that have achieved significance only within the 50 years preceding their evaluation are not eligible for inclusion in the Register unless ‘sufficient historical perspective exists to determine that the property is exceptionally important and will continue to retain that distinction in the future.’ (*National Register Bulletin 16A: How to Complete the National Register Form*) This is an extremely important criteria consideration with respect to traditional cultural values. A significance ascribed to a property only in the past 50 years cannot be considered traditional.” (*National Register Bulletin 38*) A property needs to meet the definition above and be evaluated and determined to be eligible for the inclusion in the NRHP to be a TCP.

Most properties that will qualify as TCPs are Native American TCPs, which are most appropriately evaluated by prehistoric archaeologists who have training or experience in ethnography, in consultation with Native Americans. *National Register Bulletin 38* offers guidance on the identification and evaluation of TCPs. See also [Chapter 3](#).

Effective in 2015, under CEQA there is a new category of historical resource called a tribal cultural resource, which is defined in PRC 21074(a). The statute identifies a tribal cultural resource as a CRHR or local register eligible site, feature, place, cultural landscape or object that has cultural value to a California Native American tribe. The process of identifying tribal cultural resources is the same as for Traditional Cultural Properties, as explained above.

To date, very few non-Native American TCPs have been identified in California, although some potential properties have been evaluated, and in consultation with the SHPO, determined to be not eligible for inclusion in the NRHP. Potential TCPs should be re-

ferred to the appropriate cultural resources specialist, who will consider whether a potential TCP may be present, requiring recordation and evaluation.

4.5 Background Research

Background research is conducted prior to reconnaissance or windshield surveys as a means to guide identification efforts within the APE. It includes reviewing previous survey efforts, existing information on known historic properties, and any data concerning possible historic properties not yet identified. The scope of the background research will depend on the

- Magnitude of the undertaking,
- Extent of potential effects to historic properties,
- Relevance of previous cultural studies in the vicinity,
- Availability of documentary or oral information, and
- Number and types of properties that can be reasonably anticipated.

For screened undertakings listed in Section 106 PA [Attachment 2](#), the Caltrans PQS will conduct the level of background research necessary to determine whether an undertaking is exempt from further review or consultation under Section 106. It may require a field review, examination of project plans, consultation with knowledgeable people, or review of relevant documents, such as previous studies, maps, or photographs of the project area. The extent of the screening effort should be in proportion to the complexity, scale, and location of the undertaking and the potential for historic properties to be present and to be affected. See Section [4.2.1](#), above for a description of the screening process.

In all cases where cultural resources identification efforts are required for a project, certain minimum levels of background research must be carried out, and more detailed research will be conducted as necessary. See [Exhibit 4.2](#) for standard sources of information that may be useful in conducting this research. The results of the research will be documented and used to identify the potential existence of cultural resources in the APE or Study Area and to determine what additional identification and evaluation measures may be required.

4.6 Initial Surveys

4.6.1 Reconnaissance Surveys

Reconnaissance, or windshield, surveys are a visual inspection, typically a first walk-through or drive-through, of a project's APE or Study Area. They can provide evidence or an indication of the presence or absence of properties requiring study and of the project's potential to have an effect on historic properties. They may be conducted to

- Help determine whether an undertaking can be screened,
- Exempt properties that will not require evaluation, and
- Verify the extent of modern ground disturbance.

In addition, they may be used to verify the presence of resources identified through background research and to identify any additional properties that may require consideration.

These surveys, along with preliminary research, can provide information on the likelihood of cultural resources requiring study within a given corridor for comparison among project alternatives. The Caltrans PQS should convey to the DEBC in a memorandum: the results of the reconnaissance survey and any relevant background research, and recommend any additional work that will be required.

4.6.2 Native American Consultation

The purpose of Native American coordination is to identify during the project's initial survey phase any potential resources with Native American values and any issues of Native American concern relating to the undertaking's potential effects on historic properties. Qualified prehistoric archaeologists or the District Native American Coordinator (DNAC) should seek information from individuals and organizations likely to have knowledge of potential resources with Native American values in the project APE or Study Area. Any Native American concerns that may require attention should be identified during this initial survey.

Following the procedures described in [Chapter 3](#), the prehistoric archaeologist or the DNAC will initiate contacts with potentially interested Native American groups and the Native American Heritage Commission (NAHC). Good faith efforts to contact Native American groups may entail telephone, in person, or written contacts, depending on the complexity of a project and the rapport established with particular groups. The NAHC is to be contacted for information about any resources listed in their Sacred Lands files.

4.6.3 Field Surveys

This section provides general guidance regarding archaeological and built environment field surveys. Chapters [5](#), [6](#), and [7](#) provide specific direction by discipline and resource type on survey methods and report preparation.

If a field survey is not necessary for a particular project, document the reasons in a memo and place it the project file, and if appropriate, attach it to the HPSR.

4.6.3.1 Archaeological Surveys

The purpose of an archaeological survey is to identify and record all resources in the APE or Study Area that meet the NRHP definition of an archaeological site. In accordance with Caltrans policy, appropriately qualified Caltrans PQS or qualified consultants meeting the same criteria need to survey nearly all ground-disturbing projects in the field for archaeological resources. An archaeological survey is always conducted unless it can be shown that all ground surfaces have undergone substantial modern disturbance, or the APE or Study Area has been previously surveyed to appropriate standards. Plowed fields and graded areas should be surveyed, because undisturbed portions of sites may still exist within those areas. In some urban areas, where no original ground surface is exposed, background research should be conducted to determine whether previously recorded sites are known, and to identify the potential for buried sites that may require identification measures other than a pedestrian archaeological reconnaissance survey, e.g., a geo-archaeological survey or remote sensing. See [Chapters 5](#) and [6](#) for detailed discussion of prehistoric and historical archaeological survey methods.

4.6.3.2 Built Environment Surveys

The purpose of a built environment survey is to identify and record, and also to evaluate, all built environment resources within the APE or Study Area that have any potential to meet the NRHP criteria. The built environment survey will consider buildings, structures, objects, districts, and non-archaeological sites for NRHP eligibility under criteria A, B, and C, and in rare circumstances, under Criterion D, and simultaneously consider whether the properties meet similar criteria as historical resources under CEQA. Evaluation is an integral component of built environment surveys, not separate from the identification and recordation process, and not subject to deferral to a later stage of the project. Field surveys of the built environment consequently follow a different path from archaeological surveys, consisting of a single continuous process from identification through evaluation.

Under Section 106 PA [Attachment 4](#), architectural historians may determine to be exempt from evaluation or further review built environment properties that categorically possess little potential to meet NRHP criteria. Exempt properties do not typically require any level of recordation.

Previous recordation of exempt properties, including assignment of trinomials that was done in the course of an archaeological survey does not obligate architectural historians to evaluate those properties.

See [Chapter 7](#) for further details on built environment survey methods.

4.6.3.3 Survey Access

When it is necessary to enter private property, permission must be first obtained from property owners or tenants. For survey access to certain public lands, also, permits may be required.

Under Caltrans policy, District Right of Way handles all access requirements involving private lands. The DEBC should designate a single cultural resources staff person for each project to coordinate with Right of Way staff regarding access permission for all advance studies. Staff shall carry copies of any rights of entry paperwork into the field.

Not all surveys require access onto the property. Built environment surveys can often be conducted from the public right of way, without entering private property or restricted areas, and neither residential back yards nor building interiors need be entered or examined in the normal course of a survey. On occasion, such as when surveying large parcels or complex properties, it may be necessary to enter private property or restricted public property in order to survey the area adequately. At such times, right of access to that property must first be obtained.

4.6.3.4 Field Safety

Caltrans staff and consultants conducting field surveys on Caltrans and local assistance projects must be familiar with Caltrans safety policies and procedures for field trips, visiting construction and maintenance sites, and field surveys. These policies and procedures are found in the

- [Caltrans Safety Manual](#), particularly [Chapter 5](#) sections 5.08 and 5.13 and the Code of Safe Practices for Field Trips (Appendix A)
- [Caltrans Construction Manual](#), Chapter 2, sections on [Safety](#) and [Traffic](#).

- [Caltrans Surveys Manual, Chapter 2](#) (Safety), and the [Caltrans Code of Safe Surveying Practices](#)

In addition, Caltrans office staff visiting projects in the field must be familiar with the [Caltrans Safety Manual, Chapter 5](#) sections 5.08 and 5.13 and the Code of Safe Practices for Field Trips (Appendix A) and provide this information to others visiting in the field, such as staff from partner agencies, consulting parties, and others who need to visit construction, maintenance and field survey sites.

The “buddy system” is strongly encouraged for fieldwork, and staff always should ensure they know how to get help promptly in an emergency. In some areas, it is advisable to check in with the local law enforcement agency before beginning work.

A first aid kit, cell phone, and drinking water should always be kept on hand, and other safety equipment may be in order if special hazards exist. When working with heavy equipment or along the roadside, all staff must wear OSHA-approved hard hats, sturdy shoes, and safety vests.

The Caltrans Safety and Surveys Manuals cover most potential hazards encountered during surveys, but hazardous wastes and other unsafe physical conditions may also be encountered at some built environment properties or historical archaeological sites.

Properties associated with industrial activities may contain chemical contamination or toxic waste, and dangerous substances used in industrial processes may remain at a site or in the soil. The possible presence of such substances is not always revealed in background research, so it is best to consider soils at any industrial processing area as potentially contaminated and to avoid substances in containers or leaching from the soil. Suspected toxic wastes must be reported to the District Hazardous Materials Coordinator. Care must also be taken when working in agricultural areas, as herbicides and pesticides sprayed on farm fields may leave toxic residues for several days after spraying.

Wells, mineshafts, and other depressions can pose considerable risk to surveyors. Mineshafts can be hundreds of feet deep and are often obscured by brush or debris. They may contain contaminated air, gases, or unstable structural members or walls. Surveyors should avoid walking over piled debris or into dense stands of vegetation that may obscure such deep depressions. Entry into dilapidated buildings should also be avoided, as they may contain deteriorated and weakened structural members and unsafe wooden floors or stairs.

If a property owner or tenant objects to survey activity, or if a situation appears to present any threat, staff must leave the property immediately.

Safety of employees and good relationships with the public are both prime considerations while conducting surveys or other fieldwork. Any safety factors or access restrictions that limit a surveyor's ability to conduct a full survey may be explained in the technical document.

All surveys and other fieldwork shall be conducted in keeping with the [Caltrans Code of Safe Surveying Practices](#).

4.6.4 Recordation

Record prehistoric and historical archaeological sites in detail during the identification process, following the procedures described in chapters 5 and 6. Archaeological properties and features that are exempt under Section 106 PA [Attachment 4](#) are not required to be recorded; however, under certain circumstances, such as those described in Section [4.4.1](#) above, the Caltrans PQS or consultant conducting the survey may determine that some minimal level of recordation is appropriate, commensurate with the nature of the property.

For built environment properties, recordation is begun during identification but not completed until later, during the evaluation stage, in order to include the evaluative component. Guidance for recordation of built environment properties is provided in [Chapter 7](#). Built environment properties that are exempt under Section 106 PA Attachment 4 do not require any level of recordation, nor do they warrant any mapping or listing. If the Caltrans PQS or consultant conducting the survey deems any recordation necessary because of circumstances, it should be minimal and commensurate with the nature of the property.

For all property types, recordation must include careful delineation of boundaries to ensure that they are adequate for consideration of project effects. Generally, boundaries should be drawn to include the entire property, even when portions of a property fall outside the initial APE or Study Area (see Section [4.3](#) for discussion of APEs). The APE or Study Area normally should be expanded to include the known or reasonably anticipated boundaries of a property, but it is not always necessary to include entire large or complex resources where potential effects on the whole would clearly be negligible.

Inclusion in the APE does not mean that all portions of properties must always be fully recorded. Portions of an archaeological site outside of the proposed right of way that are not subject to direct effect may often be adequately described for the purposes of the undertaking based only on what is known about them from previous surveys or documentary evidence. Similarly, for large properties such as potential historic districts or long linear resources, defining the overall extent, general configuration, and major characteristics of the property may be adequate description of the property as a whole, without recording specific features outside the area subject to effect.

Questions about appropriate levels of recordation may be referred to the CSO Section 106 Branch Chief.

4.6.5 Reporting

The Screened Undertaking memo to the project manager and for the project files constitutes the only documentation necessary to complete the Section 106 process for screened undertakings that have been determined exempt from further review in accordance with Section 106 PA [Attachment 2](#).

Properties determined to be exempt from evaluation under Section 106 PA [Attachment 4](#) need only the statement, “consistent with Section 106 PA Attachment 4, properties/ other properties are exempt from evaluation,” included in the technical studies. Do not discuss exempt properties in the HPSR, as Caltrans does not request SHPO concurrence in this finding. Evidence that Caltrans has employed the properties exempt stipulation of the Section 106 PA can typically be handled by checking the appropriate box of the short-form HPSR (see [Exhibit 2.6](#)), or by adding the statement, “consistent with Section 106 PA Attachment 4, properties/ other properties are exempt from evaluation,” to the narrative version of the HPSR.

The results of cultural resources surveys will be reported in the appropriate technical studies. Normally, archaeological survey results will be reported in an Archaeological Survey Report (ASR) (see [Chapter 5](#)), while the evaluation of both historical archaeological sites and built environment properties may be reported in a Historical Resources Evaluation Report (HRER), which may be a single combined document, if appropriate (see [Chapters 6](#) and [7](#) and [Exhibit 6.2](#)).

4.6.6 Report Review and Distribution

4.6.6.1 Peer reviews

Peer review is the single most important step in ensuring quality control for work done under the Section 106 PA. Peer reviews are conducted

- To ensure that reports are adequate,
- Professional standards met,
- Conclusions acceptable and supported by evidence, and
- Format and content guidelines followed.

They are useful in improving the general quality of reports, sharing information between authors and reviewers, and promoting relative consistency in style and content. [Exhibit 2.11 Table C](#) contains information on the Caltrans PQS levels that are required for peer review of cultural resources documents, while [Exhibit 2.13](#) provides guidelines for conducting peer reviews. Reviews always must be respectful, constructive, and honest, in accordance with these guidelines.

Caltrans PQS certified in the appropriate discipline and level must peer review all reports. If needed, districts may forward reports to CSO or to another District for peer review by qualified staff. Peer reviews should receive the highest priority in work assignments and should be conducted as promptly as possible, taking no longer than 15 working days, preferably 10 days or less.

4.6.6.2 Report Approvals

Following peer review, as outlined in [Exhibit 2.11 Table C](#), Caltrans PQS must review and approve all documents prepared for undertakings that come under the terms of the Section 106 PA – regardless of their origin – for quality of reporting, soundness of conclusions, and compliance with the Section 106 PA. This review is essential to the quality assurance required by the Section 106 PA, and it cannot be delegated.

After satisfactory Caltrans PQS review, DEBCs are responsible for reviewing and approving all documents prepared under their jurisdiction, including reports prepared by CSO on their behalf, for any other departmental concerns. DEBCs have 10 working days after receipt to review and approve CSO-prepared reports. If CSO does not receive comments within that period, CSO may assume that the District has approved the document. Similarly, CSO Branch Chiefs are responsible for reviewing and approving documents prepared under their direction when the documents are not specifically related

to district project, such as evaluation of headquarters facilities, or work requested by other headquarters divisions.

4.6.6.3 Transmittal of Documents

Caltrans transmits documents to SHPO and CSO or retains them in the District as directed by [Chapter 2](#), in accordance with the stipulations of the Section 106 PA, and for state-owned cultural resources, in accordance with the stipulations of the 5024 MOU. The Districts send one copy of each transmitted document and copies of all related correspondence to CSO for filing. If state-owned cultural resources are involved, for PRC 5024 purposes send a copy of the transmittal letter that identifies the state-owned properties and the outcome of the evaluation to the BEPS Branch Chief in CSO. Provide copies of archaeological reports and site records to the appropriate Information Center. Built environment studies and records are evaluative documents, and are thus not transmitted directly to Information Centers but instead SHPO forwards them there following concurrence in the findings.

Transmittals may be hard copy or electronic submittals, depending on a document's content and complexity and the needs of the review agencies. A transmittal letter that clearly states the purpose of the submittal, the conclusions being presented, and the regulatory action being requested must accompany the documents. See [Exhibit 2.12](#) for examples of transmittal letters and memos (e.g., No Historic Properties Affected, Eligible Historic Properties, Caltrans to SHPO: Initial Consultation for Adverse Effect, Caltrans to SHPO: Initial Consultation for Adverse Effect, Caltrans to SHPO: Initial Consultation for Adverse Effect).

4.7 Cultural Resources Evaluations

When resources could be affected by an undertaking, they must be evaluated for their eligibility for the NRHP, unless they qualify as properties exempt from evaluation under Section 106 PA/5024 MOU Attachment 4, or they can be protected by Environmentally Sensitive Area designation, in accordance with [Section 106 PA/5024 MOU](#) Attachment 5. All other properties subject to effect must be evaluated.

4.7.1 Requesting Evaluations

The DEBC, in consultation with the PQS, is responsible for requesting any required evaluations of resources that are subject to effect by a proposed undertaking.

Evaluations of cultural resources must be conducted by Caltrans PQS meeting the appropriate level of professional qualifications, as detailed in [Section 106 PA/PRC 5024 MOU Attachment 1](#), or by consultants meeting the same professional standards. As described in Section [4.4.2](#), above, prehistoric archaeologist Caltrans PQS or consultants evaluate prehistoric archaeological sites using the guidance offered in [Chapter 5](#); historical archaeologist Caltrans PQS or consultants evaluate historical archaeological sites using the guidance in [Chapter 6](#); and architectural historian Caltrans PQS or consultants evaluate buildings, structures, objects, non-archaeological sites, and districts composed of such resources using the guidance provided in [Chapter 7](#). Specialists may work individually or in collaboration with other specialists, depending on the kinds and complexity of properties involved and on any multiple values that may be present. See [Exhibit 1.6](#) for guidance in determining which Caltrans PQS or consultant specialists are needed for studies of the various cultural resources types.

Requests to CSO, other districts, or consultants for studies, including evaluations, should be accompanied by

- Project description,
- Mapping, and schedules;
- Existing background and survey information; and
- Copies of any previous studies of the project area.

Adequate time must be allotted for evaluations in project development schedules, particularly for project areas containing a large number of properties or complex resources or when archaeological excavation programs may be required to complete the evaluations (see [Exhibit 2.3](#)).

4.7.2 Conducting Evaluations

Evaluations of the resources that have been identified within a project APE are conducted to determine whether they are eligible for the NRHP and whether they are historical resources under CEQA. [National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation](#) provides the basic guidance Caltrans uses for determining significance and assessing integrity when evaluating cultural resources for NRHP eligibility. Properties must be evaluated in a Historical Resources Evaluation Report (HRER) or an

Archaeological Evaluation Report (AER) and the appropriate DPR 523³ forms. The DPR 523 series of inventory forms have been adapted for Caltrans use; the Caltrans DPR 523 form templates are available on the Caltrans *Standard Environmental Reference* Volume 2-Cultural Resources ([SERv2](#)) website.

The evaluation must contain substantive information on each property, including a physical description, significance finding (eligible or ineligible for the NRHP), justification and evidence for the finding, photographs, and a map. For properties found eligible, it must also cite the applicable NRHP criteria and explain how the criteria apply, define boundaries, list period of significance and level of significance (local, state, or national), and if appropriate, identify the property's contributing and noncontributing elements, including setting. NRHP boundaries must be depicted on the APE maps. See [Exhibit 2.15](#) for guidance in preparing summaries of these essential elements of eligibility determinations. For CEQA purposes, the evaluation must also cite the applicable California Register of Historical Resources criteria that qualify the property as a historical resource under CEQA.

Eligibility information is contained in the HPSR, supporting technical reports (HRER or AER), and DPR 523 forms for the resources being evaluated and those findings presented in the HPSR, except when all potential values of an archaeological site can be protected by the establishment of an Environmentally Sensitive Area (ESA). In that case, [Section 106 PA/5024MOU](#) Attachment 5 allows the site to be treated as eligible for the purposes of the undertaking without conducting a formal evaluation (see [Chapter 2, Section 2.4.3](#)).

With CSO's approval, identification and evaluation may sometimes be phased where there are many project alternatives or where access is restricted pending right-of-way acquisition. The FHWA, Advisory Council on Historic Preservation, and SHPO all discourage unnecessary excavation of archaeological sites because of costs and to avoid impacts to sites that would otherwise not be affected. Thus, the phased approach to evaluation ensures that excavation is limited to sites within the selected construction alternative rather than being extended to all alternatives under consideration.

Under the Section 106 PA, the Caltrans district now determines eligibility. Consequently, Caltrans PQS will state that properties *are* or *are not eligible*, rather than saying that

³ Department of Parks and Recreation (DPR 523) inventory forms that are used for recording and evaluating forms within the state for submittal to the Office of Historic Preservation and the California Historical Resources Information System (CHRIS) regional information centers.

they *appear* so. Consultants will continue to conclude that properties appear eligible or not eligible, but when Caltrans transmits the finding, the transmittal letter will state that Caltrans finds properties either eligible or not eligible.

Detailed discussion regarding what constitutes appropriate level of documentation is contained in [Chapter 5](#) for prehistoric archaeological resources, [Chapter 6](#) for historical archaeological resources, and [Chapter 7](#) for built environment resources.

4.8 Cultural Resources Study Documents

Cultural resources study documents should be prepared as efficiently and effectively as possible, taking advantage of opportunities to streamline document preparation. Among those opportunities are the use of existing overviews instead of redoing research and creating new text, and the combination of related documents when feasible, for greater efficiency.

4.8.1 Using Existing Documents

Instead of rewriting general historical contexts, it is acceptable to excerpt relevant portions of historical overviews from earlier reports covering the same geographical area. *It is necessary, however, to properly cite the text as coming from the older report* (e.g., “The following discussion is excerpted [verbatim *or* with minor editing for purposes of the current project] from [cite report]”). Often the earlier reports established the significant themes for an area; unless these themes have changed, or additional themes must be addressed, additional research is not required. For example, there have been a series of highway projects in Fresno in the past twenty years. General historical overviews in earlier Caltrans technical studies summarizing Fresno’s general growth, prehistory, and history can be reused. This allows cultural resources specialists to more efficiently use their time researching additional pertinent themes and pursuing site-specific research.

4.8.2 Combining Documents

When a project APE contains a combination of archaeological sites, prehistoric or historical, and built resources or properties with other values, documents should be combined, where appropriate, in order to reduce duplication of effort and to ensure seamless consideration of all values and resource types. Research, overviews, and mapping should be combined, whenever possible, for work that is done by a multi-disciplinary team or compiled in a single effort. Separate documents may be warranted when reports must be prepared at different stages of a project or by different entities or when subjects or formats are incompatible.

An example of combined reporting would be evaluating both historical archaeological sites and built environment properties in a single [HRER](#). Similarly, a combined AER/HRER may be used when evaluating both prehistoric and historical archaeological sites in a project area.

When a combined report is prepared, the document should contain all of the required elements of each report type, with appropriately qualified staff each writing the separate contributions. The reporting requirements for each discipline should be accommodated in a flexible manner; but a uniform citation style should be selected, typically the style appropriate for the dominant or primary resource type.

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Chapter 5: Prehistoric Archaeological Resources Identification, Evaluation, and Treatment

5.1 Introduction

At least 12,000 years of human occupation are represented in California's prehistoric archaeological sites. These resources form an irreplaceable source of knowledge of the prehistoric events, peoples, and lifeways of the region. Increasingly, however, growth and development have threatened the existence of that archaeological record which, once lost, can never be restored. By enacting a body of law and by providing regulations and guidelines, both the federal and state governments have taken steps to protect those non-renewable resources.

Caltrans cultural resource policy is to avoid and, if avoidance is not possible, to minimize adverse effects of transportation projects upon significant cultural resources. This chapter, which is part of the Caltrans *Standard Environmental Reference Volume 2-Cultural Resources* ([SERv2](#)), provides information on the procedures and documents used to implement this policy and to comply with state and federal laws and regulations, with respect to prehistoric archaeological resources; see [Chapter 6](#) for guidance on historical archaeological resources.

5.2 Laws and Regulations

Caltrans prepares cultural resources studies to comply with the California Environmental Quality Act of 1970 (CEQA) and [Section 106](#) of the National Historic Preservation Act (NHPA) of 1966, as amended ([16 USC 470](#)). [Chapter 2](#) discusses the general regulatory context of this work. [Chapter 3](#) discusses laws relating to the involvement of Native American Tribes, groups or individuals in cultural resource studies, including curation and compliance with Health and Safety Code and Public Resources Code when dealing with human remains and associated grave goods.

State and federal laws restrict the release of specific archaeological site location information to the public; see [Section 5.3.3](#) below.

5.3 Standards, Work and Safety

5.3.1 Professional Qualifications

Caltrans selects cultural resources specialists based on standards set by the California State Personnel Board and the federal [*Secretary of the Interior's Professional Qualifications Standards*](#). While these different standards overlap in many regards, they are not identical. Taking into consideration these different sets of standards in relation to Caltrans cultural resources needs, Caltrans has identified six levels of archaeological qualifications for Caltrans cultural resources staff. These six levels are codified as Professionally Qualified Staff (PQS) levels in the Section 106 Programmatic Agreement (Section 106 PA [Attachment 1](#)) and Public Resources Code 5024 Memorandum of Understanding (5024 MOU [Attachment 1](#)), and have been adopted as the new qualifications standards for both federal undertakings and state-only (Section 106 and CEQA-level) Caltrans cultural resources activities. These qualifications levels are as follows:

- Archaeological Crew Member
- Lead Archaeological Surveyor
- Co-Principal Investigator, Prehistoric Archaeology
- Co-Principal Investigator, Historical Archaeology
- Principal Investigator, Prehistoric Archaeology
- Principal Investigator, Historical Archaeology

These levels and associated criteria are specific to Caltrans, and may or may not correspond with similar titles and qualifications in other agencies and organizations.

The six qualifications levels reflect increasing levels of expertise, as demonstrated by education, experience, understanding of the Section 106 process, and familiarity with Caltrans' cultural resource policies, procedures, and goals. Use of these qualifications levels is designed to provide a credible and competent staff, and to ensure that Caltrans staff meets the standards of the federal agencies that review Caltrans' work. All Caltrans archaeological work must be performed by and/or, directed and reviewed, by Professionally Qualified Staff, or PQS (i.e., staff meeting the qualifications for the designated level of work). More specifically, those not fully qualified as archaeological Principal Investigators may perform many tasks with Principal Investigator oversight (generally in the form of peer review) or under direct supervision Principal Investigator(s) in the appropriate discipline.

The Section 106 PA [Attachment 1](#)/5024 MOU [Attachment 1](#) lists the criteria to meet these different qualification levels. Caltrans archaeological staff are certified as to level of expertise by submitting a completed copy of the relevant PQS certification form to the Headquarters' Cultural Studies Office (CSO) of the Division of Environmental Analysis (DEA) for evaluation by the CSO Chief. (See [Chapter 1](#) beginning with [Section 1.3.5](#) for a complete discussion on the subject of qualifications and [Section 1.3.6](#) for the Caltrans PQS certification process). [Exhibit 1.6 Table 2](#) provides a chart of PQS levels required for roles in archaeological studies.

Caltrans also uses the same professional qualifications standards in fulfilling its cultural resources compliance for prehistoric archaeology under CEQA.

5.3.1.1 Caltrans staff archaeologists

In addition to preparing technical studies, under the Section 106 PA/5024 MOU Caltrans staff archaeologists who are certified as PQS also review and approve Section 106 documents. District or CSO PQS also may review consultants' resumé's to ensure professionals meeting the Secretary of the Interior's Professional Qualifications Standards conduct work.

The PQS delegation applies to Caltrans staff only.

5.3.1.2 Consultant archaeologists

Consultants working on FHWA-funded undertakings and Caltrans state-only projects must meet the [Secretary of the Interior's Professional Qualifications Standards](#). While professional archaeologists outside of Caltrans who meet the *Secretary of the Interior's Professional Qualifications Standards* may prepare work for submittal under the Section 106 PA/5024 MOU, they are not certified as PQS. The Caltrans PQS is responsible for the review, approval and submittal of consultant-prepared documents to CSO¹ and the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) under the Section 106 PA/5024 MOU.

5.3.2 Standards for Documents

Later sections of this chapter discuss the standards for completing and evaluating various Caltrans archaeological studies and documents. These standards are based primarily on the standards set forth at [36 CFR 800.11](#), but also rely on guidance in the [Secretary of Interior's Standards and Guidelines for Archeology and Historic Preser-](#)

¹ To FHWA for projects on tribal lands or for which FHWA has retained Section 106 responsibilities ("non-assigned" project), with a copy to CSO.

vation, and the California Office of Historic Preservation (OHP) publications *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (DPR 1989) and *Guidelines for Archaeological Research Designs* (DPR 1991) and in *National Register Bulletins* [36](#) and [38](#).

5.3.3 Confidentiality of Information

Consistent with the requirements of [NHPA Section 304](#), the Federal Highway Administration (FHWA), and Caltrans, as assigned by FHWA, may withhold from disclosure to the public all information relating to the location or character of historic properties whenever they determine that disclosure may create a substantial risk of harm to the resource.

Information on archaeological site locations is also exempt from public access, as provided by the *California Public Records Act* ([California Government Code 6254.10](#)). In addition, effective beginning in 2015, PRC 21082.3(c) provides confidentiality protections for information California tribes have provided through consultation.

Information on the specific locations of archaeological sites is made available only on a “need-to-know” basis to individuals who legitimately need this information to meet their project responsibilities. This may include Caltrans environmental branch chiefs and generalists, project managers and engineers, archaeological consultants, and Native American Tribes, groups or individuals.

As a general rule, archaeological site records, maps, and aerials depicting exact site locations are limited to technical documents, such as archaeological survey and excavation reports. *These documents are not available to the general public*, but qualified researchers may consult them at the District Environmental Branch (DEB), CSO, and the Information Centers of the California Historical Resources Information System ([CHRIS](#)). The Information Centers require all researchers who use the records to sign an *Agreement of Confidentiality* form which states that they will not disclose specific site locations to unauthorized individuals or in publicly distributed documents without written consent of the State Historic Preservation Officer (SHPO).

While management documents contain legal findings under Section 106, such as in the Historic Property Survey Reports ([HPSR](#)), and under CEQA and PRC 5024 in the Historical Resources Compliance Report (HRCR), information may need to be extracted from technical documents; such documents are to exclude sensitive materials.

Technical documents containing confidential information should not be appended to copies of HPSRs or HRCRs that may circulate outside the path of CSO²/SHPO/THPO review. Documents attached to copies in that path must be labeled as confidential.

5.3.4 Typical Hours and Elapsed Time for Studies

The amount of staff work and schedule time required to complete the different types of archaeological studies vary greatly, depending on a range of potentially important factors:

- Size of the project
- Number and complexity of the sites involved
- Changes in project schedules or design
- Delays in ancillary studies
- Conflicting workload priorities

Caltrans has made several analyses of projects to provide rough estimates for work and schedule requirements. [Exhibit 2.3](#) summarizes these estimates which can range from one month for a survey report to as much as five years for a project requiring data recovery excavations.

5.3.5 CSO Assistance with Studies

The CSO provides archaeological assistance to the Caltrans districts on more complex undertakings. While CSO is not available to prepare technical reports, experts can provide guidance on all aspects of Section 106 compliance and documentation. To request such assistance, send an email or memo to the CSO Chief.

5.3.6 Field Safety

Caltrans's policy is that "no field activity shall be considered so important or urgent that...any safe practice will be compromised." The lead archaeologist on a field crew is responsible for ensuring that the crew is aware of safety hazards, concerns, and precautions. [Chapter 4](#) Section 4.6.3.4 provides more information on field safety.

Caltrans strongly recommends using the "buddy system" anytime staff are in the field. For work in remote or dangerous localities and in hazardous areas or conditions, safety procedures include the "buddy system" on surveys and daily communication with a supervisor.

² And FHWA for non-assigned project or those on tribal lands.

Where applicable, staff should be certified in Hazardous Waste Operations and Emergency Response (40-HAZWOPER) safety training, confined space procedures, and shoring procedures. For excavations deeper than 150 cm (5 ft.), shoring, or acceptable alternatives to shoring, in conformity with the Division of Occupational Safety and Health (OSHA) standards, must be used. The principal investigator on excavations can also request a safety review by the Caltrans District Safety Officer.

Additional information on safety practices can be found in:

- [Caltrans Safety Manual](#), [Chapter 5](#) sections 5.08 and 5.13 and the Code of Safe Practices for Field Trips (Appendix A)
- [Caltrans Construction Manual](#), Chapter 2, sections on [Safety](#) and [Traffic](#).
- [Caltrans Surveys Manual](#), [Chapter 2](#) (Safety) and the [Caltrans Code of Safe Surveying Practices](#)

5.4 Identifying Prehistoric Sites (Phase I)

The identification phase for archaeological studies typically involves conducting a records search, continuing consultation with Native Americans, conducting an archaeological field survey of the project Area of Potential Effects (APE), and documenting the results of the survey (both prehistoric and historical archaeological properties) in an Archaeological Survey Report (ASR), discussed in [Chapter 5 Section 5.4.5](#).

5.4.1 Pre-field Preparations

Preparations for archaeological surveys include:

- Defining the APE or Study Area on project mapping
- Researching appropriate records and literature
- Identifying Native American concerns
- Securing the required permits for the survey from public agencies and private landowners
- Scheduling the survey and making physical arrangements (coordinated with district Right-of-way)

The archaeological survey area is based on the project APE, set by the Project Manager and the Caltrans PQS, see [Chapter 4](#) Section 4.3. If the APE has not been set by the time an archaeological survey is needed, then a Study Area will be designated until an APE can be delineated. The APE for archaeology is referred to as the Direct APE or Area of Direct Impact (ADI). It usually includes the existing right-of-way;

any new right-of-way; all proposed easements, temporary or permanent, including staging areas or construction access roads; and material or disposal sites that may be impacted by project activities.

The project map, either a contour map or an aerial photograph, should have the project APE or Study Area delineated on it by Caltrans district personnel in consultation with the Project Manager. Depending on the complexity of the project, all major cultural features and all facets of the proposed project (e.g., cut/fill lines, drainage structures, new right-of-way, borrow sites, haul roads) should be depicted on the map.

The map should be of a scale (at least 1" = 200') suitable to serve as a base map for the report.

Accurate maps or aerial photographs allow the archaeologist to plan the archaeological field survey, compare the project limits to the results of positive records searches, plot archaeological sites in relation to the proposed project, and ensure that the entire APE or Study Area is surveyed. In preparing for fieldwork on projects requiring new right-of-way, district right-of-way (ROW) personnel contact the landowners of private parcels through which the survey will pass.

Some background research is always conducted *in advance* of archaeological field surveys to ensure that surveyors are adequately informed about the types of resources they may be required to identify in the field, as discussed in [Chapter 4](#) Section 4.5 and [Exhibit 4.2](#). Caltrans PQS should first query the Caltrans Cultural Resources Database (CCRD) to identify any previous Caltrans studies in the vicinity. The [CHRIS](#) Information Centers maintain records and reports of survey and excavation projects beyond the Caltrans rights-of-way; the Caltrans PQS determines when a CHRIS records search is necessary depending on project scope and archaeological sensitivity. CHRIS records searches should be done prior to field survey and as early as practicable in the project planning process. Consult Caltrans records, such as as-built drawings, prior to going in the field. Additional research may be appropriate for particularly sensitive regions or in urban settings.

Archaeologists typically request a CHRIS records search that identifies previously recorded sites and surveys within a one-mile radius of the study area and obtain copies of records for all recorded resources within one-quarter mile. Archaeologists should keep in mind the setting and scope of the undertaking when determining the appropriate spatial distance for the records search. For example, when an undertaking is on a river, look for sites up and down the river rather than in a simple arbitrary cir-

cle. Where previously recorded archaeological sites are identified during the records search, use that information to predict archaeological sensitivity of the undertaking's APE. If a site previously was recorded in the undertaking's APE, include the previous site record form and updates in the ASR.

Caltrans PQS will determine when to contact the appropriate Information Center for a records search and will specify the level of information needed. *Local agencies should not order record searches unless Caltrans PQS determine that it is necessary.*

A CHRIS records search may be necessary to acquire enough information to screen an undertaking at the beginning of the Section 106 review process, as outlined in Section 106 PA [Attachment 2/5024 MOU Attachment 2](#) and procedures in [Chapter 4](#) Section 4.2.1. Consult with the CSO Section 106 Programmatic Agreement and Coordination Branch (Section 106 Branch) Chief when additional guidance is necessary.

The project archaeologist works with the District Native American Coordinator (DNAC) to contact the appropriate Native American Tribes, groups or individuals to solicit any concerns they have about the proposed project or information they have on cultural resources in the project area. See [Chapter 3](#) for more information on the timing of this consultation.

5.4.2 Archaeological Field Survey

This section provides specific guidance regarding archaeological field survey methods and the preparation of Archaeological Survey Reports (ASR). When a project is not screenable, an archaeological survey is always conducted unless it can be shown that

- All ground surfaces have undergone substantial modern disturbance, or
- The PQS determines that the APE or Study Area previously has been surveyed to appropriate standards.

The purpose of the archaeological survey is to identify and record all resources that meet the National Register of Historic Places (NRHP) definition of a "site" (See [National Register Bulletin 16A: Appendix IV](#)). The archaeologist also may make note of any historic-era built resources or other properties (e.g., farmhouses, old roads, potential Traditional Cultural Properties) that may require referral to other experts.

According to Caltrans policy, nearly all ground-disturbing projects are surveyed in the field for the presence of archaeological resources. This includes projects in areas that may be rated as having "low archaeological sensitivity" by other agencies such as Information Centers. Saving a small amount of time by not surveying in low-sensitivity areas does not offset the risk of later delaying a project when there is late discovery of archaeological resources in such areas.

Archaeologists should survey plowed fields and graded areas because undisturbed portions of sites may still exist within those areas. In some urban areas, where no original ground surface is exposed, archaeologists should still conduct background research to determine whether

- 1) Previously recorded sites are known, and
- 2) To identify the potential for buried sites that may require identification measures beyond a pedestrian archaeological reconnaissance.

If there is a high expectation for buried sites, subsurface testing or remote sensing studies might be warranted as part of the identification effort. Some projects do not require archaeological surveys. The most straightforward case for not conducting a survey is when adequate surveys in the area previously have been completed. An archaeological survey may not be necessary in urban areas where research shows no original ground surface remains; however, the identification effort should assess the potential to encounter subsurface archaeological deposits. If a survey is not performed, the archaeologist should document the reasons in a memo that will be placed in the project file and, if appropriate, attached to the HPSR.

Field Methods

Archaeological field survey strategies should include on-foot visual inspection of 100 percent of the APE (or Study Area) with regularly spaced transects. Exceptions to complete coverage include areas that cannot safely be accessed or that afford no ground visibility. These include dangerously steep slopes, dense underbrush, stands of poison oak, and areas that are paved or under water. The presence of small areas excluded from survey should be noted in the ASR; more extensive unsurveyed areas should be plotted on the Survey Coverage Map.

If buried sites are expected, the ASR should mention that fact and indicate the need for

- 1) Any further studies that may be required to test for the presence of such resources,

- 2) Preparation of treatment plans, or
- 3) Preparation of a plan for discoveries during construction.

Parallel transects are the most common survey method:

- The lead archaeological surveyor determines the transect spacing on the basis of ground visibility, lateral visibility, and area sensitivity for prehistoric and historic remains
- Maximum spacing should not be more than 25 meters; an interval of 15 meters is commonly used in many areas
- If systematic linear transecting is not practical, zigzagging to ensure coverage is appropriate

Where different coverage methods have been employed, indicate those locations on an appropriately scaled Survey Coverage Map.

Collection of Artifacts

Artifacts are *not* collected during surveys. If, for some reason, collection of an artifact is considered necessary, a written justification and a curation plan must be submitted to the DEBC. Collection of diagnostic artifacts may be a condition of some federal survey permits, in which case the archaeologist will abide by the stipulations of the permit. Collection of artifacts on private lands also requires the written permission of the property owner to whom the artifacts belong.

Collection generally is reserved for rare or unusual items of significant research value.

Caltrans policy prohibits the unauthorized collection of artifacts and may subject the collector to disciplinary action. Unauthorized collection may be a violation of state or federal law.

5.4.3 Properties Exempt from Evaluation

Section 106 PA [Attachment 4/5024 MOU Attachment 4](#) identifies certain specific classes of properties that typically do not require recordation, evaluation, or further review. [Chapter 4](#) Section 4.4.1 discusses the procedures for implementing Section 106 PA Attachment 4/5024 MOU Attachment 4. The co-principal investigator in prehistoric or historical archaeology is authorized to determine, in the field, what archaeological resources need to be recorded. Before fieldwork, the appropriately qual-

ified PQS should define what constitutes an isolate, as this may vary from region to region and may differ from OHP's definition of "less than three associated artifacts."

Isolates are formally recorded only *under unusual circumstances or for exceptional finds*, such as a fluted projectile point.

Some public land-holding agencies, as part of their use permits, may require archaeologists to record isolates on their lands.

Section 106 PA [Attachment 4/5024 MOU Attachment 4](#) includes the category "isolated prehistoric finds consisting of fewer than three items per 100 m²." When potential isolated prehistoric finds are encountered, care should be taken to ensure such finds are in fact isolated. At the discretion of Caltrans PQS staff lead surveyor level or above, shovel scrapes may be employed. The ASR should discuss all identification methods used.

Included in the list is the property type "isolated refuse dumps and scatters over fifty years old that lack specific associations" that deserves some special guidance. Application of Section 106 PA [Attachment 4/5024 MOU Attachment 4](#) for exemption of this class of resource must be conducted with care. Follow the guidelines in [Chapter 6 Section 6.4.2](#).

The level of documentation afforded to properties that are exempt from evaluation is based on the professional judgment of the PQS, in accordance with the guidance provided in Section 106 PA [Attachment 4/5024 MOU Attachment 4](#). Documentation, if warranted, should be "...at a level commensurate with the nature of the property."

It may be appropriate to note such finds in the ASR and on coverage maps in technical survey documents, but they are not described in the HPSR and are not plotted on APE maps. More formal recordation (e.g., DPR 523³ series Primary Record forms) should be used sparingly, as resources that warrant this level of documentation may require formal evaluation. Section 106 PA Attachment 4/5024 MOU Attachment 4 does not apply to archeological sites, traditional cultural properties, Tribal Cultural Resources under CEQA, or other cultural remains or features that may qualify as contributing elements of districts or landscapes.

³ Department of Parks and Recreation (DPR 523) inventory forms that are used for recording and evaluating forms within the state for submittal to the Office of Historic Preservation and the California Historical Resources Information System (CHRIS) regional information centers.

The key to successful implementation of Section 106 PA/5024 MOU Attachment 4 is sound professional judgment. Contact the appropriate CSO Section 106 Branch Chief with questions concerning the applicability of Attachment 4 to specific resources. Consultants are encouraged to seek early involvement of district PQS in the appropriate discipline(s) and/or the appropriate CSO Branch Chief to avoid unnecessary study of resources that Caltrans PQS or appropriately qualified consultants have determined are exempt from evaluation.

5.4.4 Recording Archaeological Sites

Surveyors should look for all evidence of past occupation, but recordation efforts should be restricted to cultural resources that meet the definition given for prehistoric and historical archaeological sites. Archaeological properties not meeting the criteria of Section 106 PA [Attachment 4/5024 MOU Attachment 4](#) should be recorded, included in the ASR and referred to an appropriately qualified Principal Investigator for evaluation, as warranted. Prehistoric and historical archaeological sites should be recorded in detail by entering appropriate information directly into the CCRD, including maps and photographs. If CCRD is not available, sites should be recorded using the Caltrans DPR 523 forms. Instructions for completing the DPR 523 series forms are contained in the Office of Historic Preservation's [Instructions for Recording Historical Resources](#) (1995). DPR 523 Forms tailored for Caltrans use can be found on the [SERv2](#) website in the “Templates” section.

The specific kinds of forms used to record a cultural resource will depend on the nature of the project and the type and complexity of the resource. The minimum level of documentation for all cultural resources is a Primary Record (DPR 523A) and Location Map (DPR 523J).

Detailed recordation of archaeological sites should minimally consist of:

- Primary Record (DPR 523A)
- Archaeological Site Record (DPR 523C)
- Sketch Map (DPR 523K)
- Location Map (DPR 523J)

If the following types of features are present, recordation also may require the use of:

- Rock Art Record (DPR 523G)
- Milling Station Record (DPR 523F)
- Linear Feature Record (DPR 523E)

When encountering an intact historic-era resource (i.e., building, structure, linear resource, or object in the field, make note of the resource and refer it to the appropriate PQS; do not record the resource on an Archaeological Site Record (DPR 523C) form. See the “[Notation on Mapping when Built Environment Resources are Present](#)” section below.

Very large and complex sites composed of multiple components or features also may be recorded as districts. Use a Primary Record, Location Map, and District Record (DPR 523D) to document districts, with individual records also prepared for each major contributing element that falls within the APE of a project. Minor elements of the district usually do not require individual records if they can be described adequately on the District Record.

The documentation of historical archaeological resources that include linear features should be supplemented with a Linear Feature Record (DPR 523E) for the ruins of linear structures (e.g., water conveyance system, railroads, trails, and road ruins). Reasonable efforts should be made to ascertain the entire extent of any linear resource that is documented, using records such as historic maps and aerial photographs or inspection points at easily accessible locations along the resource. Summarize the information about the entire resource, to the extent known, on a Primary Record and Location Map. On the Linear Resources Record, mark the detailed field documentation of the portion of the resource within the APE or Study Area, as well as any other inspection points.

When recording archaeological sites the following considerations apply

- If practicable, the *entire* property should be recorded, even when portions of that resource fall outside the initial Study Area. Under those circumstances it may be appropriate to expand the Study Area. For very large and complex resources (e.g., districts and linear resources) it may be adequate to define the overall extent and general configuration of the property without recording features outside the Study Area in detail. The final APE then would encompass the boundaries of the identified properties.
- For the purposes of field recordation, site boundaries should be drawn as lines encompassing all of the associated physical remains. Historical information should be used to the fullest extent possible when defining the limits of historic-era resources. Information about parcel, claim, and easement boundaries may have bearing on the limits of a historical resource.

- It is not necessary to describe every item observed, but a representative sample of the various types of materials present at a resource should be provided. Some effort should be made to describe, and, where appropriate, illustrate or photograph diagnostic materials such as projectile points, beads, and marked historic-period artifacts. For resources with multiple features or activity areas, observations regarding associated cultural materials should be given *separately* for each recorded locus because those locations may differ in age or function.
- As appropriate, describe the building materials and construction techniques of built environment ruins. Qualified historical archaeologists, architectural historians, or historians can assist with describing these ruins.
- Record all observable ground disturbances in and adjacent to archaeological deposits, including subsequent construction of buildings or roads. Plot all disturbance and modern features present at the site on the sketch map.

It is Caltrans policy that statements of significance regarding a site's eligibility for inclusion in the NRHP and California Register of Historical Resources (CRHR) are not made solely on the basis of site record information. Evaluations are the result of field visits and more extensive studies by appropriately qualified archaeologists.

Notation on Mapping when Built Environment Resources are Present

When sites are associated with an intact building or structure (e.g., bridge, canal, silo, etc.), the built remains also should be noted on the Primary Record. Qualified architectural historians will record and evaluate built environment elements. Recordation of properties with both built and archaeological elements should be coordinated with qualified architectural historians as described in [Chapter 6](#) and [7](#). Questions about appropriate levels of documentation of built environment resources should be referred to the appropriate CSO Branch Chief.

5.4.5 Archaeological Reporting

Use the Archaeological Survey Report (ASR) to document archaeological survey results. Be sure to append copies of all previously and newly prepared site records to the ASR. [Exhibit 5.1](#) contains guidelines for the format and content of ASRs.

The ASR documents both positive and negative archaeological survey results; it does not evaluate sites. The ASR is in text format only; there is no longer a form version of this document.

The ASR demonstrates that Caltrans has made a reasonable level of effort to identify historic properties that is commensurate with the scale and scope of the undertaking.

Accordingly, the level of detail included in the ASR is variable. A small project with no sites may result in a three-page ASR while a large project through several ethnographic areas with a number of sites may result in a 50-page ASR.

The ASR should briefly discuss the results of background research, including the modern environment, paleoenvironment, archaeology, ethnography, and history of the study region as appropriate. These background sections serve to provide a context for understanding the sites identified in the study, the project area sensitivity, and appropriate identification methods. Do not include irrelevant or unnecessarily detailed information in the report. In the text, the ASR should briefly describe and discuss each recorded resource individually. Do not include specific recommendations for further work in the ASR. If recommendations are to be made, the archaeologist should include them in a memorandum transmitting the final ASR to the DEBC.

5.4.5.1 When to Use a Supplemental ASR

If additional survey is required *after* the initial ASR has been submitted to SHPO, prepare a supplemental ASR. The supplemental ASR need not repeat the background section of the initial report, provided no further background research was needed. Supplemental ASRs are numbered sequentially: First Supplemental ASR, etc.

5.4.5.2 Primary Numbers and Trinomials

For any newly recorded cultural resources, district PQS obtain permanent primary numbers, and as appropriate, site trinomials from the appropriate [CHRIS](#) Information Center before completing the ASR. The project specialist or consultant may obtain primary numbers or trinomials at the PQS's direction. If obtaining permanent primary numbers and trinomials would create an unacceptable delay, temporary numbers may be used, with documentation of the request for permanent numbers appended to the report.

5.4.5.3 Maps

All ASRs should attach at least three maps:

- *Study Vicinity Map*: depict the study vicinity in relation to the county or district
- *Study Location Map*: show the area surveyed on the appropriate USGS quadrangle (at its original scale)
- *Survey Coverage Map*: show the area surveyed and the boundaries of identified cultural resources on detailed project mapping or aerials. Include the APE map if one has been prepared

5.4.6 Review, Approval, and Distribution of ASR

5.4.6.1 Peer review of ASR

Caltrans PQS certified at the Co-Principal Investigator level or higher must peer review the draft ASR whether it is prepared by Caltrans PQS or qualified consultants. Caltrans PQS carefully review ASRs prior to submission to FHWA and SHPO to ensure timely consideration and approval by those agencies. Peer review ensures that the ASR:

- 1) Follows the format and content guidelines provided in [Exhibit 5.1](#)
- 2) Meets professional standards in field methods, site recording, and reporting
- 3) Fulfills the obligation of the identification step required by Section 106 PA [Stipulation VIII/5024 MOU](#) [Stipulation VII](#) and [36 CFR 800.4\(b\)](#) and PRC [5024 MOU](#).

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals, and document distribution.

5.4.6.2 Approval and Distribution of ASR

Following peer review, and any necessary revisions, the report preparer signs the title page of the final ASR. Then, Caltrans PQS certified at the Co-Principal level reviews for approval either the Caltrans staff- or consultant-prepared final ASR. Review ensures that the report is acceptable and that the maps depicting the Study Area and the area surveyed are accurate. If a Caltrans PQS Co-Principal Investigator has not prepared the report, the responsible PQS Co-Principal Investigator indicates review and *approval* by signing the title page of the report. The DEBC then reviews and formally approves the ASR by signing the title page.

Attach the ASR to the [HPSR](#) (for federal undertakings) or Historical Resources Compliance Report [HRCR](#) (for state-only projects) to document efforts to identify historic properties. The district PQS:

- Keeps a copy of the HPSR with the approved ASR attached in the district file when any of the findings described in the Exhibit 2.6 “[HPSR to District File](#)” are applicable

- Sends one copy of the HPSR with the approved ASR attached, to the SHPO⁴ when any of the findings in “[HPSR to SHPO](#)” are applicable and concurrently sends one copy to the CSO Section 106 Branch Chief
- Sends one copy of the HPSR with the approved ASR attached, to the CSO Section 106 Branch Chief⁵ when either of the findings in “[HPSR to CSO](#)” are applicable
- Send one copy of the approved ASR, and two copies of each site record form, to the appropriate CHRIS Information Center

If recommendations concerning the resources were made in a memo transmitting the ASR to the DEBC, a copy of this memo should be attached to the CSO transmittal memo. See [Chapter 2](#) for specific guidance on transmitting reports to FHWA and SHPO.

5.5 Extended Phase I for Prehistoric Sites

The Extended Phase I (XPI) study is an extension of the identification phase, meeting the requirements of [36 CFR 800.4\(b\)](#) and [Section 106 PA Stipulation VIII B](#). “to identify historic properties within the area of potential effects” and similar requirements under CEQA. The chief goal of the XPI study is to define part or all of the boundaries (horizontal or vertical) of an archaeological site.

According to FHWA, SHPO and Caltrans policies, there are five reasons to conduct an XPI study:

- 1) To determine whether a portion of a site extends horizontally into areas potentially affected by the undertaking, which would necessitate inclusion of the entire site within the undertaking’s APE;
- 2) If site deposits do extend into areas potentially affected by the undertaking, to determine whether the deposits also extend into the Direct APE, or can be fully protected with the use of an Environmentally Sensitive Area (ESA);
- 3) If site deposits do exist within the Direct APE, to determine whether the portion of the site within the Direct APE is so disturbed that it would no longer have a potential to contribute to NRHP eligibility or CEQA significance for the site as a whole;

⁴ Or FHWA for non-assigned project or those on tribal lands.

⁵ Or FHWA for non-assigned project or those on tribal lands.

- 4) To determine if a subsurface deposit is associated with surface materials or features (such as a bedrock milling station with no apparent associated remains); or
- 5) To search for archaeological deposits (as an extension of the survey effort) in areas of high sensitivity where such deposits may be buried or obscured by sediment deposition, vegetation, or landscaping or other modern development.

This type of study is not appropriate if surface indications suggest a reasonable likelihood that an undisturbed or minimally disturbed subsurface deposit does exist in the APE.

An XPI is not appropriate for evaluating the significance of a site. The proper vehicle for evaluation is the Phase II test excavation. The district PQS determines the need for an XPI; the appropriate CSO Branch Chief is available for consultation on this decision.

The XPI study includes:

- Preparation of a proposal
- Fieldwork
- Laboratory work
- Preparation of a report on the study results

The results are summarized in the HPSR for federal undertakings or HRCR for state-only projects, to which the XPI Report is appended.

The typical work effort for fieldwork and reporting of an XPI study is 360 hours. The average elapsed time for producing a final product is 180 calendar days (6 months).

5.5.1 Extended Phase I Proposal

Caltrans PQS archaeologists prepare and peer review an Extended Phase I (XPI) Proposal, and the DEBC approves it, prior to excavations. The proposal should indicate the reasons for the XPI study, the field methods to be used, and the thresholds that will determine when the study goals have been met. Because of the limited scope of the XPI study, extensive background information, and elaborate discussions of regional research questions are *not* appropriate.

The XPI proposal also should include:

- Curation plans
- Arrangements for a Native American Monitor
- Estimates of the time and personnel required to complete field, laboratory, and reporting tasks

Proposal length should not exceed a few pages. [Exhibit 5.2](#) provides guidelines for preparing the XPI proposal.

Methods of excavation for this phase of study may include any combination of standard archaeological techniques, including mechanical excavation, surface scrapes, auger holes, shovel test pits, rapid recovery units, standard control units, and trenching. The XPI proposal should explain how the specific methods selected, including the type, number, and placement of study units, will achieve the study's goals.

5.5.2 Review, Approval, and Distribution of XPI Proposal

5.5.2.1 Peer Review of XPI Proposal

Caltrans PQS certified at the Principal Investigator level must peer review the draft XPI Proposal. Caltrans PQS carefully reviews the XPI Proposal to ensure that the XPI Proposal clearly defines

- The goals of the study.
- The methods to be used.
- The factors that will determine the scope of the study.

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals and document distribution.

A biologist also should review the XPI Proposal to ensure that no impacts to significant biological resources would result from archaeological excavation.

5.5.2.2 Approval and Distribution of XPI Proposal

Following peer review, and any necessary revisions, the report preparer signs the title page of the final XPI Proposal. If a Caltrans PQS certified at the Principal Investigator level has not prepared the proposal, the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. The DEBC then reviews and formally approves the XPI Proposal by signing the title page.

5.5.3 Pre-field Preparations

Pre-field preparations include:

- Obtaining maps and/or aerial photographs
- Securing permits and curation agreements
- Coordinating with Native American Monitors

The Pre-excavation Checklist ([Exhibit 5.9](#)) contains additional pre-field preparations.

Maps and/or aerial photographs of sufficient detail are necessary to document the XPI fieldwork and to show the relationship of site limits to the project APE.

Mapping should be at scale (e.g., 1":20', 1":50') suitable to serve as a base map for the XPI Report.

Assessor's parcel maps should be obtained in order to clearly determine the ownership of the property on which excavation is to be undertaken. Engineering plans, cross-section schematics, and/or as-builts may be necessary to determine and demonstrate the spatial relationship between proposed testing efforts, previous disturbances, and the proposed project.

Obtain required permits before beginning fieldwork. District Right-of-Way staff obtains written permission for any excavation on private lands.

For liability reasons, written permission from private landowners is necessary if the fieldwork is conducted on private land. The project archaeologist will supply to district Right-of-Way staff a concise and clear written explanation of the work to be conducted. Artifacts legally are the property of the landowner and are to be returned to the owner, unless a written agreement is obtained for Caltrans to retain and curate the recovered artifacts. Professional responsibilities dictate that every effort should be made to obtain permission for curation of recovered archaeological materials. [Section 5.11](#) discusses permit requirements, procedures, and responsibilities; the Caltrans Division of Right-of-Way and Land Surveys *Surveys Manual*, available to Caltrans staff on the Caltrans intranet site, also contains additional guidance on obtaining entry.

A curation agreement with an approved facility should be in place before fieldwork commences. If arrangements with a facility cannot be completed prior to work, the

proposal must identify how and where materials will be maintained until an agreement is reached. The DEBC reviews and approves the curation agreement.

The project archaeologist works with the DNAC to notify the appropriate Native American Tribe, group, or individuals and provide them the opportunity to participate in the XPI study.

The minimum qualification for directing the XPI study is Co-Principal Investigator under the supervision of a Principal Investigator; qualifications levels for other participants in the XPI are shown in [Exhibit 1.6 Table 2](#).

5.5.4 Fieldwork, Laboratory Analysis, and Curation

Field and laboratory work should follow the proposed plan. Because XPI studies typically result in the recovery of a minimal quantity of archaeological materials, laboratory work will probably be limited to washing, basic identification of materials and artifact types, cataloging the materials, and the tabulation of their quantities.

If a Phase II study is to be undertaken soon after the XPI fieldwork, the full processing and analysis of the XPI collection may be deferred for inclusion with the Phase II collection. However, if any uncertainty exists as to whether the Phase II study will be conducted, or if any substantial time will elapse before it is begun, the XPI collection separately should be processed and reported. Caltrans is committed to complete documentation of the collection, regardless of changes in highway project plans.

Recovered materials are to be curated at an appropriate repository in accordance with [36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections,"](#) and OHP's ["Guidance for the Curation of Archaeological Collections."](#)

Remote Sensing

Fieldwork also may include remote sensing. Information gained through remote sensing may aid in the identification and NRHP eligibility and CEQA significance evaluation of a site by gathering context-related data on subsurface components through non-invasive means. This option is true in depositional and non-depositional environments. [Exhibit 5.10](#) contains a more complete discussion of the benefits and requirements for incorporating a geophysical survey, such as a remote sensing survey, into project schedules.

5.5.5 Extended Phase I Report

The Extended Phase I (XPI) Report explicitly should address the purpose for which the work was undertaken: the relationship of the site limits to the project's direct and indirect APE, and the integrity of the deposit within the direct APE. If the study has refined the boundaries or characteristics of the archaeological site, append a revised archaeological site record to the report. Additionally, the report provides basic documentation of any cultural materials that were recovered and the nature of the deposits that were encountered.

Do not include recommendations for further work in the XPI Report. Include such recommendations, if there are any, in the transmittal memo attached to the final report sent to the DEBC for approval. [Exhibit 5.3](#) provides guidance for the format and content of XPI Reports.

5.5.6 Review, Approval, and Distribution of XPI Report

5.5.6.1 Peer Review of XPI Report

Caltrans PQS certified at the Principal Investigator level must peer review the draft XPI Report. Caltrans carefully reviews XPI Reports to ensure that it meets Section 106 or CEQA compliance needs and professional standards. Peer review should evaluate:

- Whether the study followed the scope of work as proposed
- The adequacy of the field techniques used
- Whether the goals of the study have been met

See [Section 5.13](#) and [Exhibit 2.13](#) for guidance on the peer review process and documentation, review times, approvals, and document distribution.

The district PQS also should send draft *review* copies to any agencies permitting the work, such as the Bureau of Land Management (BLM) or the U.S. Forest Service (USFS). Their comments should be addressed in the final report.

5.5.6.2 Approval and Distribution of XPI Report

Following peer review, and any necessary revisions, the report preparer signs the title page of the final XPI Report. If a Caltrans PQS certified at the Principal Investigator level has not prepared the report, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page of the report. The DEBC then reviews and formally approves the XPI Report by signing the title page.

Attach the XPI Report to the HPSR (for federal undertakings) or HRCR (for state-only projects). The district PQS:

- Keeps a copy of the HPSR with the XPI Report attached in the district file when any of the findings described in the Exhibit 2.6 “[HPSR to District File](#)” are applicable
- Sends one copy of the HPSR with the XPI Report attached, to the SHPO⁶ when any of the findings in “[HPSR to SHPO](#)” are applicable and concurrently sends one copy to the CSO Section 106 Branch Chief
- Sends one copy of the HPSR with the XPI Report attached to the CSO Section 106 Branch Chief⁷ when either of the findings in “[HPSR to CSO](#)” are applicable
- One copy of the approved XPI Report to the appropriate CHRIS Information Center
- Additional copies of the HPSR or HRCR to which the approved XPI Report is attached, to any agencies permitting the work and to consulting Native American Tribes, groups or individuals

For federal undertakings, if the transmittal memo to the DEBC provides any recommendations concerning the resource, a copy of the memo is included in the package sent to the CSO Section 106 Branch Chief. See [Chapter 2](#) for specific guidance on transmitting reports to FHWA and SHPO

5.6 Evaluating Prehistoric Sites (Phase II)

Federal agencies are required to follow [36 CFR 800](#) to consider the effects of an agency's undertaking on properties listed in or determined eligible for inclusion in the NRHP, and to afford the Advisory Council on Historic Preservation (Council) a reasonable opportunity to comment on the effect finding. Caltrans, as assigned by FHWA achieves this through implementation of the Section 106 PA. Under state law, for sites that cannot be avoided by the project, CEQA Guidelines [15064.5](#) also provide for the evaluation of their importance and CEQA Guidelines [15126.4\(b\)](#) provide for mitigating project effects to important sites.

Caltrans uses the NRHP criteria ([36 CFR 60.4](#)) to evaluate whether a site is eligible for inclusion in the NRHP for Section 106 compliance on federal undertakings, as well as for compliance under Public Resources Code (PRC) [5024](#) for state-owned archaeological resources. For CEQA, Caltrans uses the CRHR criteria ([PRC 5024.1](#)),

⁶ Or FHWA for non-assigned project or those on tribal lands.

⁷ Or FHWA for non-assigned project or those on tribal lands.

as required by CEQA Guidelines [15064.5\(a\)\(1\)](#). See [Exhibit 4.3](#) for additional information on eligibility criteria, the similarities and the differences between the NRHP and CRHR criteria.

If project impacts to an archaeological site cannot be avoided, a Phase II study may be undertaken to evaluate the site and to assess potential project effects. A Phase II study may consist of test excavations and other work for these objectives. The results of a Phase II study are presented in an Archaeological Evaluation Report (AER), which is appended to an HPSR or HRCR, per [Section 5.6.8](#) below.

Archaeological sites are most commonly determined eligible for inclusion in the NRHP based on Criterion D because they "have yielded or may be likely to yield information important in prehistory or history." In many cases, other NRHP criteria may apply to archaeological sites as well. However, in order to be eligible under these other criteria, a property must also retain integrity (see [Exhibit 4.3](#) and [National Register Bulletin 15](#) for more detailed discussions of integrity. See also [National Register Bulletin 36](#) for discussions on applying Criteria A, B, or C to archaeological sites).

Archaeological sites may qualify for the NRHP by criteria or characteristics other than those that effectively can be obtained or mitigated by excavation. These NRHP qualities may necessitate preserving the site in place and, thus, may subject the site to Section 4(f) of the Department of Transportation Act of 1966; see [Chapter 2](#) for further discussion of Section 4(f).

On projects with a high number of prehistoric archaeological sites or prehistoric archaeological sites of a sensitive nature, it may be appropriate to conduct a formal ethnographic study of the project area. Such a study would determine if other cultural attributes associated with the sites could contribute to significance, perhaps with reference to NRHP eligibility criteria other than Criterion D. This type of study should be viewed as *complementing*, rather than replacing, the larger Native American consultation effort for a project (see [Chapter 3](#) and [Exhibit 3.1](#)). Such studies might consist of ethnographic and historic research and interviews with Native American informants. Studies of this type should be conducted concurrently with archaeological investigations and integrated or attached to the body of the Phase II report, as they may enhance one's understanding not only of the NRHP status of the sites, but also of the archaeological data gathered during Phase II excavations.

Phase II Study

The Phase II study generally consists of fieldwork, analyses of the recovered material, and preparation of a report. The AER documents:

- The study activities
- Presents the results and their interpretation to professional standards
- Provides justification for a determination that the site is eligible—or is not eligible—for inclusion in the NRHP (or is a historical resource for the purposes of CEQA, if appropriate)

If the site is determined to be eligible for inclusion in the NRHP, or is a historical resource under CEQA, the Phase II study also serves to gather data necessary to address project effects and design a mitigation strategy, if appropriate. For the above reasons, even if a site previously has been determined eligible/significant, a Phase II study may be desirable. This situation may arise when previous evaluation studies were not conducted in the specific area to be affected, or when the site is part of a NRHP-listed or eligible historic district, but little or nothing is known about the particular site within the project's direct APE. The DEBC determines whether a Phase II excavation is needed, in consultation with appropriate CSO staff if warranted.

The Phase II study should focus on the portions of the site that would be *directly* affected by the undertaking (i.e., portions within the direct APE). While confining Phase II studies to affected areas of the sites may limit the ability to address the eligibility of sites as a whole, there are three important reasons for this practice:

- 1) *To avoid the unnecessary costs* of testing areas that have no potential to be affected
- 2) *To avoid unnecessary disturbances* to these areas as a result of the testing effort itself
- 3) *To ensure that enough data is obtained* during the Phase II effort to adequately address project effects and to design mitigation measures, if needed

In some situations it may be appropriate to investigate adjacent areas (outside the direct APE) in order to understand the context of the deposits to be potentially affected. In cases where the project limits have not been precisely defined or utility relocations might occur, such investigation might also be appropriate. Even in these cases, however, testing efforts should be weighted heavily towards the portions of the site within the direct APE.

Section 106 PA [Attachment 3](#) states (and PRC 5024 MOU [Attachment 3](#) is similar for Project Area Limits):

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

For state-only projects, under CEQA Guidelines, it is possible to combine Phase II and Phase III (data recovery) work in a single phase. The Phase II/Phase III Proposal for this approach will specify the conditions under which test excavation would phase into data recovery. CEQA Guidelines also allow for Phase III studies to be conducted without a preceding test excavation, if the site clearly is an important resource. The nature of the research to be conducted must be apparent, obviating the need for data generated by a Phase II study. The appropriateness of combining Phase II and Phase III work, or of proceeding directly to Phase III, will be decided by the DEBC on a case-by-case basis, *prior* to any fieldwork. Proceeding directly to Phase III mitigation is *not* appropriate if there may be alternatives for avoidance.

Time Required to Conduct Phase II Studies

Caltrans staff or contracted consultants may conduct the Phase II study. The recommended work standard for fieldwork and reporting of a Phase II study is 1,768 person-hours, or the equivalent of one person-year. The average elapsed time for producing a final product, whether in-house or contracted, is approximately one year (see [Exhibit 2.3](#)). Experience has shown that it is very difficult to shorten this twelve-month time period. Projects with numerous or complex sites typically will require much more than one year for completion of Phase II studies. These time frames underscore the crucial position a Phase II excavation occupies on the Section 106 compliance path.

The minimum PQS qualification level for directing the Phase II study is the Co-Principal Investigator with oversight by a Principal Investigator. [Exhibit 1.6 Table 2](#) depicts qualifications levels for other participants in the Phase II study.

5.6.1 Assumption of Eligibility and Use of ESAs under the Section 106 PA

Section 106 PA [Stipulation VIII.C.3/5024 MOU Stipulation VIII.C.3](#) allows Caltrans to consider an archaeological site eligible for inclusion in the NRHP when it will be

protected from any potential effects by the establishment and effective enforcement of an Environmentally Sensitive Area (ESA).

An important condition to using an ESA in this specific context is that the site is considered eligible *for the purposes of the undertaking*, and that the assumption does *not* extend to other undertakings whose APE might include the archaeological property.

Considering an archaeological site eligible for inclusion in the NRHP for the “purposes of the specific federal undertaking only” has important implications for the CRHR because any property that is *determined* eligible for inclusion in the NRHP through a federal action is *automatically listed* in the CRHR. This explicit qualifier ensures that sites are not inadvertently listed in the CRHR.

When using Section 106 PA [Stipulation VIII.C.3/5024 MOU Stipulation VIII.C.3](#), a site is considered to be NRHP eligible, but the report must specify under which criteria it is eligible (usually Criterion D). Caltrans must consult with Native American Tribes, groups and individuals to see whether Criteria A, B, or C apply in addition to, or instead of, Criterion D. In addition, when CEQA lead Caltrans must determine whether there is a Tribal Cultural Resource present. If other values are present, Caltrans must consult those Tribes or other interested parties that attach religious and cultural significance to the property to determine whether an ESA will adequately protect those other values without other conditions or mitigation. If the ESA will adequately protect the site and all values, then this stipulation is appropriate.

Use of an ESA to protect a site from adverse effect results in a finding of No Adverse Effect with Standard Conditions under Section 106 PA [Stipulation X.B.2/5024 MOU Stipulation X.B.2](#). Note that use of this finding requires thorough documentation that demonstrates that *all* of the conditions contained in Section 106 PA [Attachment 5/5024 MOU Attachment 5](#) have been met. See [Chapter 2 Section 2.5.3](#) and [Exhibit 2.8](#) for details on processing an HPSR containing such a finding. When an ESA is used in combination with other measures, whether on the same site or for other sites within the APE, the appropriate finding for the entire undertaking would be No Adverse Effect. An ESA also may be an element of a plan to resolve adverse effects stipulated in a Memorandum of Agreement (MOA). See [Section 5.7](#) and [Exhibit 2.7](#) for further guidance on using ESAs.

5.6.2 Evaluation without Excavation

Prehistoric archaeological sites usually require test excavation to determine whether they qualify for inclusion in the NRHP. However, there are cases in which a determination can be made without Phase II excavation.

A site may be determined to be eligible for inclusion in the NRHP on the basis of:

- Information generated in previous excavations
- Unusual and important surface characteristics, such as rock art, or features such as house pits
- Ethnographic or ethnohistoric information, or other information obtained through consultation
- Existing stratigraphic exposures indicating the presence of important subsurface constituents

In unusual circumstances, a site may be determined ineligible without subsurface testing, based on depositional circumstances that preclude the presence of any subsurface cultural deposit. Examples of this type of circumstance include an isolated bedrock-milling feature on an expanse of granite bedrock, or when research clearly shows a loss of integrity because of previous construction impacts.

The basis for a conclusion that a site is eligible or not eligible for inclusion in the NRHP without subsurface testing must be thoroughly and convincingly documented. Caltrans does not have a report type specifically for this situation. In most cases, use of a modified Archaeological Evaluation Report format will be appropriate. Note that under Criterion D, sites may be eligible based upon their potential to yield *important* information. This potential must be explicated clearly, based on a fully developed research design and an understanding of similar site types. A Principal Investigator (prehistoric or historical, as appropriate) must prepare and sign the document, which needs to be peer reviewed by a similarly qualified archaeologist. It will be attached to the HPSR or HRCR.

There are both potential advantages and disadvantages in evaluating eligibility without excavation. Omitting a Phase II study may substantially reduce costs and schedule time. It may eliminate disturbances to portions of a site that will not be affected by the highway project. However, if the proposed eligibility determination is not accepted by reviewing agencies, and test excavations are ultimately required, the adverse consequences for the project's schedule may be severe. Test excavations also help in evaluating project effects and in designing appropriate data recovery pro-

grams. These objectives may be more difficult to meet if Phase II test excavation is bypassed.

5.6.3 Using Programmatic Treatments / CARIDAPS

Some Phase II studies may be accomplished through resource-specific programmatic treatments developed and coordinated by the OHP. These programmatic treatments, called CARIDAPS or *California Archaeological Resource Identification and Data Acquisition Programs*, establish procedures for the efficient identification, re-creation, and management of certain archaeological resource classes that contain limited but useful data. The [Sparse Lithic Scatter CARIDAP](#) is the only CARIDAP that OHP has approved to date.

The implementation of a CARIDAP serves to satisfy the historic compliance process and is meant to streamline the management process by eliminating the need for formal Phase II or Phase III studies. For a qualifying site, CARIDAP implementation defines the site through prescribed field identification methods, and provides sufficient information to ensure accurate site classification and evaluation of the resource's research potential. For this CARIDAP to be applicable, the site must meet the following criteria:

- 1) It must contain *only* flaked stone, and lack other classes of archaeological material (such as groundstone, fire-affected rock, pottery, bone, or shell).
- 2) It must be smaller than 10,000 m² in area.
- 3) It must lack a substantial cultural deposit, as defined by the program.
- 4) It must have surface artifact densities less than or equal to three items per square meter.

The restrictions of these criteria (especially #1 and #3) limit the applicability of the CARIDAP program in evaluating most sites. CARIDAP treatment is also not appropriate when only a portion of the site is accessible.

Experience has shown that the CARIDAP process often reveals the need for a more traditional and complete Phase II evaluation. Thus, while the CARIDAP is designed to streamline the evaluation process, the risk of having to do an additional Phase II study, with attendant costs and schedule delays, is a significant drawback in using the CARIDAP program. For this reason, the CARIDAP program may be most useful as

an initial stage in a larger evaluation effort. In this case, the Phase II proposal/research design should address the use of this program.

Use of the CARIDAP in this fashion allows for evaluation efforts to be abbreviated, if CARIDAP criteria are met. If the CARIDAP criteria are exceeded, it allows for full evaluation efforts to proceed in accordance with the research design.

5.6.4 Archaeological Evaluation Proposal (AEP)

An Archaeological Evaluation Proposal (AEP), also referred to as a “Phase II Proposal,” is prepared and peer-reviewed by qualified prehistoric archaeologists and approved by the DEBC prior to excavations. The proposal should state the goals of the study, and clearly link the anticipated field and laboratory work to those goals.

[Exhibit 5.4](#) provides guidelines for preparing the proposal.

Because a Phase II study will evaluate the research potential of a site, the proposal must present:

- Sufficient background information
- A realistic and site-specific research design
- Discussion of relevant regional research issues

Arrangements for Native American Monitors, curation plans, permits and estimated time and personnel requirements are also addressed. District Caltrans PQS also should inform the project biologist of the proposed testing activities to ensure that an archaeological excavation would not result in impacts to significant biological resources.

5.6.5 Review and Distribution of AEP

5.6.5.1 Peer Review of AEP

Caltrans PQS certified at the Principal Investigator level must peer review the draft AEP. Peer review should ensure that the AEP:

- Contains a clear definition of study goals
- Considers appropriate regional research concerns
- Specifies a realistic level of effort and timeline to meet the goals

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals, and document distribution.

It also may be appropriate to have the draft proposal reviewed by permitting agencies (e.g., Army Corps of Engineers [COE], USFS, BLM), and/or local Native American groups. Experience suggests that 15 to 20 working days may be necessary for review on projects involving numerous resources or coordination with outside agencies (see [Section 5.11](#), “Archaeological Study Permits”).

5.6.5.2 Approval and Distribution of AEP

Following peer review, and any necessary revisions, the report preparer signs the title page of the final AEP. If a Caltrans PQS certified at the Principal Investigator level has not prepared the proposal, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. The DEBC then reviews and formally approves the AEP by signing the title page.

The district PQS sends:

- One copy of the AEP to the CSO Section 106 Branch Chief⁸
- Additional copies of the approved AEP to any agencies permitting the work and to consulting Native American Tribes, groups or individuals or any other consulting parties

5.6.6 Pre-field Preparations

The following are key pre-field preparations:

- 1) Obtain the necessary project maps, aerial photographs, assessor’s parcel maps, etc.
- 2) Secure the proper permission or permits and curation agreements.
- 3) Coordinate with the Native American community and specifically with the Native American Monitor.

Additional pre-field measures may be found in the Pre-Excavation Checklist provided as [Exhibit 5.9](#).

Obtain the appropriate maps or aerial photographs from the project engineers or through the district or headquarters Photogrammetry units. The Environmental Planner (Generalist) for the project typically obtains the Assessor’s parcel maps.

⁸ Or FHWA for non-assigned project or those on tribal lands with a copy to CSO.

The Principal Investigator confirms that the proper permits are secured if the study will occur on, federal, or other public lands, or within the coastal zone. The timeframe for pre-field preparations must allow for the permit processing. See [Section 5.10](#) for an expanded discussion on permit requirements, procedures, and responsibilities.

Assessor's parcel maps should be obtained in order to clearly determine the ownership of the property on which excavation is to be undertaken. Engineering plans, cross-section schematics, and/or as-builts may be necessary to determine and demonstrate the spatial relationship between proposed testing efforts, previous disturbances, and the proposed project.

Obtain required permits before beginning fieldwork. District Right-of-Way staff obtains written permission for any excavation on private lands.

For liability reasons, written permission from private landowners is necessary if the fieldwork is conducted on private land. The project archaeologist will have to supply to district ROW staff a concise and clear written explanation of the work to be conducted. Artifacts legally are the property of the landowner and are to be returned to the owner unless a written agreement is obtained for Caltrans to retain and curate the recovered artifacts. Professional responsibilities dictate that every effort should be made to obtain permission for curation of recovered archaeological materials. [Section 5.11](#) discusses permit requirements, procedures, and responsibilities; the Caltrans Division of Right-of-Way and Land Surveys *Surveys Manual*, available to Caltrans staff on the Caltrans intranet site, also contains additional guidance on obtaining entry.

A curation agreement with an approved facility should be in place before fieldwork commences. The DEBC reviews and approves the curation agreement. See [Chapter 3](#) for additional information.

The DNAC arranges for the Native American Monitor, but the Principal Investigator or field director is responsible for day-to-day liaison in the field. Monitoring agreements may be prepared before fieldwork that includes procedures to be followed in the event human remains are encountered. See [Chapter 3](#), "Native American Consultation," for further pertinent information.

5.6.7 Fieldwork, Laboratory Analysis, and Curation

The fieldwork and laboratory analysis need to follow the plans identified in the AEP. If changes are deemed necessary, the Principal Investigator should write the justification and file it with the district's project files. Phase II laboratory studies must be detailed enough to meet professional standards and to provide the data necessary to evaluate site integrity, research potential, and NRHP eligibility or CEQA significance. Some specialized analyses may require separate consultant contracts.

Recovered materials are to be curated at an appropriate repository in accordance with [36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections,"](#) and OHP's ["Guidance for the Curation of Archaeological Collections."](#) It is Caltrans' policy *not* to curate human remains and associated grave artifacts, sacred objects or objects of cultural patrimony. Chapter 3 [Section 3.6.9](#) contains more guidance if such items are present.

5.6.8 Archaeological Evaluation Report

Note: the Archaeological Evaluation Report used to be called the "Phase II Report" in previous versions of this volume; the change in the title clarifies the purpose of the report for non-cultural resources personnel.

The Archaeological Evaluation Report (AER) provides the basis for determining whether a site is eligible for inclusion in the NRHP or is a historical resource under CEQA. It also may document whether the proposed project will adversely affect eligible properties. To accomplish this, the report describes the fieldwork, data analyses undertaken, and the conclusions derived from them. Based on this information, the AER also demonstrates that the site does—or does not—possess the additional information potential to address significant research questions. It also may conclude that the portion of the site in the direct APE—does or does not—contribute to that potential. [Exhibit 5.5](#) contains guidance on the format and content of AERs.

In rare instances, full presentation of Phase II findings may be deferred for inclusion in a Data Recovery Report. However, the AER must contain assurances that full reporting in the Data Recovery Report will occur in a timely fashion. *Changes in project plans or elimination of the need for data recovery will not alter Caltrans' responsibility to report the Phase II results.* This approach should only be used with previous agreement from SHPO.

Do not include specific recommendations for further work in the AER. If recommendations are to be made, the archaeologist should include them in a memorandum transmitting the final AER to the DEBC.

Prepare a revised archaeological site record, incorporating information gained during Phase II studies, and append the record to the AER. The district HRC also separately files the revised archaeological site record with the appropriate CHRIS Information Center.

5.6.9 Review, Approval, and Distribution AER

5.6.9.1 Peer Review of AER

See [Section 5.13](#) and [Exhibit 2.11](#) Table C for guidance on the peer review process and documentation, review times, approvals, and document distribution.

Both draft and final versions of the Archaeological Evaluation Report are usually prepared in order to ensure that review comments are adequately addressed. The reviewers should focus on substantive concerns in the report. Caltrans PQS certified at the Principal Investigator level must peer review the draft and final AER. Caltrans carefully reviews AERs prior to submission to FHWA and SHPO to ensure timely consideration and concurrence by those agencies. The AER is peer reviewed to ensure professional adequacy in:

- Field and laboratory techniques
- Reasonableness of analysis and interpretation
- Quality of presentation
- Consistency with Caltrans and OHP standards
- Adequacy of the Section 106 consultation process (for federal undertakings)

Experience has shown that a “cold” reviewer who is unfamiliar with the undertaking is more likely to provide an objective review, which helps guarantee that the document will be easily understood by regulatory agencies (i.e., SHPO) and other outside readers.

Peer review of draft AERs by outside archaeologists knowledgeable in the prehistory of the region may be beneficial if there is sufficient time to secure such a review and still meet Section 106 compliance schedules. Caltrans PQS ultimately must review the AER for approval, in accordance with the [Section 106 PA Stipulation XVIII](#) and

5024 MOU [Stipulation XVII](#). For specific information on outside peer review, contact the CSO Section 106 Branch Chief.

The district HRC also should forward the draft AER to permitting agencies (e.g., COE, USFS, BLM) for review, as well as to appropriate Native American Tribes, groups or individuals when prehistoric sites are involved. Depending on the resources being evaluated and the scope of the project, giving these organizations an opportunity to comment may be required for Section 106 consultation efforts [see [36 CFR 800.4\(c\)](#)]. Review of the draft AER by permitting agencies also may be a condition of specific permits. In instances involving especially numerous or complex resources, it may be advantageous to plan for a second draft prior to delivery of the finalized report. This option provides an opportunity to address any lingering concerns, as well as a longer review period for outside reviewers from permitting agencies and Native American Tribes, groups or individuals.

5.6.9.2 Approval and Distribution of AER

Following peer review and any necessary revisions, the report preparer signs the title page of the final AER. If a Caltrans PQS certified at the Principal Investigator level has not prepared the report, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. Finally, the DEBC reviews and formally approves the AER by signing the title page.

For federal undertakings, the district PQS sends:

- One copy of the approved AER to SHPO⁹ for concurrence on NRHP eligibility with concurrent submittal to the CSO Section 106 Branch Chief.
- If Native Americans have been consulting parties they get a copy concurrent with the SHPO submittal unless the Tribe has indicated it does not want a copy

After SHPO has concurred on NRHP eligibility determinations (for federal undertakings), or, for state-only projects, *after* the DEBC has approved the final AER, the district HRC provides:

- One copy of the approved AER to the regional CHRIS Information Center
- Additional copies of the approved AER to permitting agencies as required for conditions of permits (e.g., COE, USFS, BLM), and to any other consulting parties

⁹ And FHWA for non-assigned project or those on tribal lands.

See [Exhibit 2.16](#) for Caltrans policies regarding the publication and external distribution of reports.

If the memo transmitting the AER to the DEBC for approval made recommendation concerning the resource, this memo also should be sent to the CSO Section 106 Branch Chief (for federal undertakings).

5.7 Environmentally Sensitive Areas

When a resource within the APE can be protected from adverse effects, the resource and any surrounding buffer is designated an Environmentally Sensitive Area (ESA) and preserved in place. The ESA signals an area to be protected by avoidance or by restrictions on Caltrans activities.

Establishment and enforcement of an ESA is explained in the ESA Action Plan that is prepared for each undertaking. The ESA Action Plan explains specific provisions that will be employed to physically protect the site (e.g., construction of protective fencing). Enforcement measures include provisions such as periodic monitoring by PQS or consultant archaeologists (with periods mandated), Native Americans as appropriate, or contractually binding penalties for violations of the ESA. [Exhibit 2.7](#) provides further guidance on what to include in an ESA Action Plan.

5.7.1 Providing ESA Information to Others

The DEBC is responsible for developing and providing information on ESAs to the other functional units. The DEBC provides ESA information to:

- District Project Development, for inclusion in construction plans (i.e., *Plans, Specification, and Estimates*)
- Resident Engineer (RE), as special instructions to the RE's Pending File, and a copy of these instructions to CSO
- District Maintenance, information on permanent ESAs established within Caltrans right-of-way, ownership, or jurisdiction

5.7.2 Enforcement of ESAs

During construction

- The *Resident Engineer* ensures that contractors adhere to the provisions of the contract regarding the ESA.
- The *DEBC* is responsible for ensuring that construction is monitored and for communicating with the RE regarding ESA compliance.

- The *Monitors* may be Caltrans PQS certified at the Co-Principal Investigator level (see [Section 106 PA/5024 MOU Attachment 1](#) and [Exhibit 1.6 Table 2](#)), or they may be consultants who meet the [Secretary of the Interior's Professional Qualifications Standards](#) for archaeologists.
- If Tribal Monitors are required, the Native American tribe determines appropriate qualifications for their monitor.

For maintenance activities

- *District Maintenance Engineer, maintenance region manager, and staff* are responsible for ensuring that ESAs are protected during maintenance activities.
- Maintenance staff must check with the DEBC *before* ground disturbing activities that may affect ESAs that the DEBC identified.
- The DEBC ensures monitoring of permanent ESAs to evaluate their effectiveness. Any problems should be discussed with the appropriate maintenance personnel immediately.

5.7.3 Posting of Archaeological ESAs

Fencing, staking, or other physical barriers may be necessary to guarantee protection of an ESA. ESA protective measures are taken when failure to do so likely would result in damage to a resource because of its proximity to a construction area or maintenance activities. ESA protective measures also are taken if the resource is of unusual sensitivity. When such damage is unlikely, these measures may not be desirable because they may draw attention to the resource.

The DEBC decides:

- Which ESAs need to be posted
- How they are to be posted (e.g., signs, staking, or fencing)
- Who will be responsible for posting the ESAs

This ESA information must be:

- Included in the contract's Special Provisions and mapped on the plans
- Included in the RE's Pending File
- Explained to the RE by environmental staff at a strategy meeting
- Provided to Maintenance and Permits if the ESA is permanent

When the highway contractor is to install a fence, the fence specification, order of work, and lead time to arrange for a monitor (if appropriate) must be specified in the contract. *The contractor does not need to know the nature of the resource being protected.* An added measure of protection is afforded an archaeological site if its presence does not become general knowledge.

Compliance under Section 106 is jeopardized if ESAs are violated, regardless of whether actual protected sites are damaged. If burials are involved, all applicable state and federal Native American burial laws and regulations also apply.

Damage to archaeological sites may result in additional archaeological work that necessitates construction delays.

When damage occurs, the DEBC prepares a Report of Construction Impacts to Cultural Resources. The DEBC certifies this report and includes it in the project files. The DEBC sends copies of this report to Headquarters Division of Construction and to the CSO Chief. [Exhibit 5.13](#) contains guidance on completing the Report of Construction Impacts. Violation of ESAs must be reported to SHPO when they occur; they are also reported in the Section 106 PA Annual Report. Annual reports are discussed in [Chapter 2 Section 2.5.6](#). [Section 5.10](#) discusses situations in which a violation of an ESA results in a “discovery” situation.

5.8 Archaeological Data Recovery (Phase III)

The potential contribution of a prehistoric site to archaeological research can be preserved, at least in part, through an excavation program designed to recover the materials that constitute important data. This research program is referred to as data recovery, or a Phase III study. Under 36 CFR 800, data recovery at an archaeological site is no longer the basis for a finding of "no adverse effect" to the site. However, data recovery continues to be an important measure to mitigate adverse effects, when avoidance of impacts is not feasible.

The data recovery (or Phase III) study consists of:

- Preparation of a proposal for fieldwork and analysis
- Fieldwork
- Laboratory work and analysis
- Reporting the study's results

Data recovery excavations are intended to capture information that will be lost as a result of the project, whether federal undertaking or state-only project. Therefore, data recovery excavations are confined to the direct APE, unless otherwise indicated in a data recovery plan being implemented under the terms of the MOA for the undertaking. The Data Recovery Report documents the contribution of the site to regional research and completes the archaeological portion of Section 106 compliance and/or CEQA mitigation commitments. Increasing emphasis is being given to the importance of disseminating the results of data recovery programs beyond professional archaeological audiences, directly to the interested public.

Some of the methods that have been used to achieve this goal include:

- Public visits and media coverage during data recovery excavations
- Presentations to school, avocational, Native American, and local community groups
- Preparation of exhibits, web sites, booklets, and videos

Such public involvement measures must take into account confidentiality and safety requirements. In addition, see [Exhibit 2.16](#) for external report and presentation procedures.

Timing of Data Recovery in Relation to Project Funding and Schedule

Due to the nature of project funding, the data recovery process does not occur in one continuous series of events. Pre-construction dollars fund the initial Data Recovery Plan (DRP), which documents the scope and character of the proposed study. This DRP (as well as any other documents designed to avoid and/or resolve adverse effects, such as an ESA Action Plan, a Public Outreach Plan, or a Monitoring Plan) is typically attached to an MOA signed by CSO and SHPO (as described at [36 CFR 800.6\[b\]](#) and [Section 106 PA Stipulation XI](#) and 5024 MOU [Stipulation X](#)). An executed (signed) MOA must be completed prior to issuing the final environmental document for the project. Often, a significant period of time lapses before funding is secured for the project. Once the project is funded, the Phase III process begins again. At this point the DRP may be supplemented with additional details (especially cost estimates and more detailed work plans) to serve as the Phase III Proposal. A Phase III Proposal is not mandatory for all projects but may be prepared at the discretion of the Caltrans PQS, depending on the amount of time that has lapsed since preparation of the initial DRP, the thoroughness of the original DRP, or on changes that may have occurred since it was prepared. The Phase III Proposal would contain more specific information (e.g., costs, schedule, permitting, etc.) than the DRP. Alternatively, when

the DRP contains all the specifics required for a Phase III proposal and the plan is being implemented shortly after preparation, then an additional document may not be required and the DRP can serve as the Phase III proposal.

The actual Phase III fieldwork commences after the final approval of the project environmental document but before project construction. After successful completion of the fieldwork, the District submits a letter report in accordance with the MOA. Submittal of this report signals that construction can begin. Typically, the Data Recovery Report itself is produced during or after project construction.

As noted in [Exhibit 2.3](#), the time frame for a Data Recovery program, from initiation of the field study to the final report, averages 18 months, with 12 months generally the minimum. The different characteristics of archaeological sites can shorten or extend these estimates.

While Caltrans PQS may conduct Phase III studies, the work is frequently contracted out to academic institutions or consultants. This is because the complexity and comprehensiveness of required studies are beyond the time availability of in-house staff. [Exhibit 1.6 Table 2](#) shows the PQS levels required for individuals functioning as Principal Investigators, Crew Chiefs, and Crew Members on a data recovery investigation.

One means of reducing the amount of Phase III data recovery required is to cap a site with culturally sterile fill. Phase III excavations should be conducted prior to capping to recover a reasonable record of what will be buried. This avenue is appropriate only if no further impact will occur to the site; otherwise, full data recovery is appropriate. This procedure is in accordance with principles in the Council's 1999 [Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites](#). Although the CEQA Guidelines allow for capping sites without prior excavation, it is Caltrans' practice to excavate all sites to understand the nature and extent of the property before capping the site.

5.8.1 Data Recovery Plan

A Data Recovery Plan (DRP) is prepared as an attachment to the Finding of Effect and/or MOA for the project for federal undertakings, and as part of the HRCR for state-only projects. For federal undertakings the DRP serves to obtain concurrence from CSO and SHPO that the objectives and scope of the proposed Phase III study are appropriate mitigation measures. See [Chapter 2 Sections 2.3.9](#) and [2.3.10](#) for further guidance on consulting with CSO and SHPO on resolution of adverse effect and

MOAs. The Data Recovery Plan contains less detail on fieldwork, laboratory work, and costs than is appropriate in an excavation proposal. [Exhibit 5.6](#) provides guidelines for preparing the DRP. The DRP also should follow the guidance in Section 106 PA [Attachment 6](#), particularly when the site is eligible for inclusion in the NRHP solely for its information potential (Criterion D).

Under PRC5024, the District PQS may propose Standard Mitigation Measures (SMM) to mitigate adverse effects to archaeological properties when a Data Recovery Plan has been prepared in accordance with PRC 5024 MOU [Attachment 6](#). PRC 5024 MOU Attachment 6 differs slightly from Section 106 PA Attachment 6 in that it requires Caltrans to include any alternative measures that may have been negotiated with Indian tribes that ascribe religious or cultural values to the affected historical resource, or other interested parties, to resolve adverse effects.

5.8.2 Headquarters Review of Mitigation Measures Costing \$500,000 and Above

Data Recovery Plans, Treatment Plans, excavations and other proposed mitigation measures that identify costs of \$500,000 and above *for the undertaking as a whole* must be reviewed by the CSO Chief, under delegation by the Chief, Division of Environmental Analysis.

The CSO Chief will complete the review within fifteen (15) working days from receipt of the mitigation documentation. This review is intended to provide independent analysis to ensure that the mitigation is cost effective and commensurate to the scope of the undertaking, the type and significance of the historic properties, and that the Data Recovery Plans are consistent with the requirements of [Section 106 PA Attachment 6](#) and [PRC 5024 MOU Attachment 6](#). The DEBC will take the CSO Chief's comments into consideration *prior* to approving mitigation costs of \$500,000 and above.

5.8.3 Review, Approval, and Distribution of DRP

5.8.3.1 Peer Review of DRP

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals and document distribution. Fifteen (15) working days are normally allowed for peer review, however up to 20 working days may be necessary for reviewing draft DRPs on projects involving numerous resources.

Caltrans PQS certified at the Principal Investigator level in the appropriate discipline must peer review the draft DRP. Caltrans PQS carefully review DRPs prior to submission to CSO and SHPO to ensure timely consideration and concurrence by those agencies. Similar peer review and PQS approval is required when under the PRC 5024 MOU when applying SMMs. The DRP is peer reviewed to ensure that the plan:

- Addresses appropriate regional research concerns
- Clearly defines the study goals
- Specifies a realistic level of effort and timeline to meet those goals

The district PQS also should forward the draft DRP to permitting agencies (e.g., USFS, BLM) for review, as well as to appropriate Native American groups and other consulting parties. This is to ensure adequate Section 106 consultation, as required under [36 CFR 800.6](#) and [Section 106 PA Stipulation XI](#) (“Resolution of Adverse Effects”). Experience suggests that 30 working days or more may be necessary for review on projects involving coordination with outside agencies (see [Section 5.10](#), “Archaeological Study Permits”).

5.8.3.2 Approval and Distribution of DRP

Following peer review, and any necessary revisions, the report preparer signs the title page of the final DRP. If a Caltrans PQS certified at the Principal Investigator level has not prepared the plan, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. Finally, the DEBC reviews and formally approves the DRP by signing the title page.

For federal undertakings, the district HRC sends

- One copy of the approved DRP to CSO¹⁰ for forwarding to SHPO as part of the MOA package for resolving adverse effects. When the proposal is to conduct data recovery on historic properties significant exclusively under NRHP Criterion D, pursuant to [Section 106 PA Stipulation X.C.2](#), then the Plan is forwarded simultaneously to both the CSO and the SHPO. *After CSO and SHPO have concurred* (for federal undertakings), or, for state-only projects, *after* the DEBC has approved the final DRP, the district PQS provides:
 - Additional copies of the approved DRP, distributed in accordance with commitments made in the Finding of Effect, or Memorandum of Agreement concerning the distribution of the report

¹⁰ Under the NEPA assignment CSO is the lead on tribal lands; for projects that FHWA has not assigned to Caltrans, FHWA is the lead on tribal lands and the copy is sent to FHWA.

- If Native Americans have been consulting parties they get a copy concurrent with the SHPO submittal, unless the Tribe has indicated it does not want a copy.

[Exhibit 2.11 Table B](#) provides additional information on the distribution of data recovery documents. The transmittal letter to CSO documents that commitments concerning the distribution of the report that were made in the Finding of Effect or Memorandum of Agreement have been fulfilled.

5.8.4 Phase III Proposal

The Phase III Proposal is primarily an in-house document that builds on the previous Phase II study (if one occurred) and on the Data Recovery Plan; it may reference appropriate portions of those documents or include them as attachments, if they have been adequately developed. In some cases (such as when a long period of time has elapsed since completion of the DRP) it may be desirable and/or necessary to develop a significant amount of new content for the Phase III Proposal. In this case, further consultation under an MOA *may* be required. In general, however, the Phase III Proposal will differ from the DRP mostly in that it will include the specifics of personnel, schedule, and cost. [Exhibit 5.7](#) provides guidelines for preparing the proposal.

District Caltrans PQS also should inform the project biologist of the proposed Phase III activities to ensure that no impacts to significant biological resources would result from archaeological excavation.

5.8.5 Review, Approval, and Distribution of Phase III Proposal

5.8.5.1 Peer Review of Phase III Proposal

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals and document distribution.

Caltrans PQS certified at the Principal Investigator level must peer review the draft Phase III Proposal. Caltrans PQS carefully review Phase III Proposals prior to submission to CSO¹¹ and SHPO to ensure timely consideration by those agencies. The Phase III Proposal is peer reviewed to ensure that the proposal:

- Addresses appropriate regional research concerns
- Clearly defines the study goals
- Specifies a realistic level of effort and timeline to meet those goals

¹¹ Or FHWA for non-assigned project or those on tribal lands.

The district PQS also should forward the draft proposal to permitting agencies (e.g., USFS, BLM), as well as to appropriate Native American groups and other consulting parties. The draft proposal forwarded to them should acknowledge that the key elements of the proposal already have been solidified through the project MOA (signed by the consulting parties) and the DRP, which should be attached to the draft Phase III Proposal. A minimum of fifteen (15) working days is allowed for peer review, with longer periods allowed at the discretion of the DEBC. Experience suggests that 30 working days or more may be necessary for review on projects involving numerous resources or coordination with outside agencies (see [Section 5.11](#), “Archaeological Study Permits”).

5.8.5.2 Approval and Distribution of Phase III Proposal

Following peer review and any necessary revisions, the report preparer signs the title page of the final Phase III Proposal. If a Caltrans PQS certified at the Principal Investigator level has not prepared the plan, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. Finally, the DEBC reviews and formally approves the Phase III Proposal by signing the title page.

For federal undertakings, the district PQS sends

- One copy of the approved Phase III Proposal simultaneously to CSO¹² for forwarding to the SHPO if an MOA to resolve adverse effects has not yet been completed, and if SHPO has requested a copy. If it has, then copies are distributed in accordance with the provisions of the MOA. *After CSO¹³ and SHPO have concurred* (for federal undertakings), or, for state-only projects, *after* the DEBC has approved the final Phase III Proposal, the district PQS provides:
 - Additional copies of the approved Phase III Proposal, distributed in accordance with commitments made in the Finding of Effect, or Memorandum of Agreement concerning the distribution of the report
 - If Native Americans have been consulting parties they get a copy concurrent with the SHPO submittal, unless the Tribe has indicated it does not want a copy

The transmittal letter to CSO should state that the key elements of the proposal already have been solidified through the project MOA (signed by the consulting parties) and the DRP, which should be attached to the draft Phase III Proposal.

¹² Or FHWA for non-assigned project.

¹³ For non-assigned project.

5.8.6 Fieldwork, Laboratory Analysis, and Curation

Intensive fieldwork and detailed laboratory analyses often are needed to realize the objectives of the data recovery program. Conversely, work also may be more narrowly framed than in an evaluation program because it builds on the previous Phase II testing and focuses on the specific research questions identified for the data recovery program. Typically, the data recovery program also focuses on a more limited portion of the site; this also may narrow research questions.

Field and laboratory procedures will follow those defined in the Phase III Proposal, with appropriate allowance for unexpected information opportunities or problems that may arise.

Recovered materials are to be curated at an appropriate repository in accordance with [36 CFR Part 79, "Curation of Federally Owned and Administered Archaeological Collections,"](#) and OHP's ["Guidance for the Curation of Archaeological Collections."](#)

5.8.7 Data Recovery Report

Data recovery is archaeological research undertaken to mitigate the adverse effects of a proposed project. The final report presents the contributions this excavation has made toward creating a more complete picture of regional prehistory. Future avenues for research also should be identified.

Whereas archaeological survey and evaluation reports primarily are addressed to review agencies, Data Recovery Reports primarily are addressed to those interested in the research. For this reason, more flexibility is appropriate in the way in which data recovery results are presented. Guidelines for preparing the Data Recovery Report are provided in [Exhibit 5.8](#), but modifications of these guidelines that would facilitate appropriate dissemination of the study results should be considered, in consultation between the report author and prospective peer reviewers.

Prepare a revised archaeological site record that documents the changed information about the site as a result of the Phase III studies. The district PQS sends a copy of this revised record to the appropriate CHRIS Information Center.

5.8.8 Review, Approval, and Distribution of Data Recovery Report

5.8.8.1 Peer Review of Data Recovery Report

Caltrans PQS certified at the Principal Investigator level must peer review the draft Data Recovery Report. Caltrans PQS carefully review these reports prior to submission to CSO¹⁴ and SHPO to ensure timely consideration by those agencies. The Data Recovery Report is peer reviewed to ensure that the report:

- Adequately documents all aspects of the Phase III investigations
- Addresses the identified research goals
- Presents its conclusions in a clear and logical manner

In *rare* circumstances, members of the archaeological community outside Caltrans may peer review draft Data Recovery Reports. The peer reviewers are selected for their regional and/or specialized expertise. The DEBC makes the decision to submit the report for outside peer review.

See [Section 5.13](#) for guidance on the peer review process and documentation, review times, approvals, and document distribution.

5.8.8.2 Approval and Distribution of Data Recovery Report

Following peer review and any necessary revisions, the report preparer signs the title page of the final Data Recovery Report. If a Caltrans PQS certified at the Principal Investigator level has not prepared the report, then the responsible PQS Principal Investigator indicates review and *approval* by signing the title page. Finally, the DEBC reviews and formally approves the Data Recovery Report by signing the title page.

For federal undertakings, the district PQS sends:

- One copy of the approved Data Recovery Report to CSO¹⁵ and SHPO in accordance with the commitments made in the MOA. After the DEBC has approved the final report, the district HRC provides:
 - One copy of the approved Data Recovery Report to the regional CHRIS Information Center
 - Additional copies of the approved Data Recovery Report in accordance with commitments made in the Finding of Effect, Data Recovery Plan, or Memorandum of Agreement concerning the distribution of the report

¹⁴ Or FHWA for non-assigned project.

¹⁵ Or FHWA for non-assigned project.

- If Native Americans have been consulting parties they get a copy concurrent with the SHPO submittal, unless the Tribe has indicated it does not want a copy

[Exhibit 2.11 Table B](#) provides additional information on the distribution of data recovery documents. The transmittal letter to CSO documents that commitments concerning the distribution of the report that were made in the Finding of Effect, Data Recovery Plan, or Memorandum of Agreement, have been fulfilled.

See [Exhibit 2.16](#) for Caltrans policies regarding the publication and external distribution of reports.

5.8.9 Other Data Recovery Commitments

Some data recovery programs include public information elements such as site visits, lectures, exhibits, or publications. The steps taken to fulfill these commitments, and the degree of success in meeting their objectives, should be documented all parties to the data recovery program, including CSO¹⁶, SHPO, and Native American groups. Appropriate means of documentation may include memoranda, letters, or formal reports. See [Exhibit 2.16](#) for Caltrans policies regarding the publication and external distribution of reports.

5.9 Coordinating Consultant Studies

Archaeological studies are often conducted for Caltrans by academic institutions, other agencies, or contracted private consultants, with a district or CSO archaeologist as coordinator. If CSO is participating in the administration of the archaeological study, it may be appropriate that CSO personnel also coordinate the fieldwork, so that they can develop a better understanding of the nature of the resource involved.

The archaeological coordinator acts as a liaison between Caltrans and the academic institution, other agency, or private consultant. The coordinator must have a thorough understanding of the scope and goals of the work and the requirements of the contract. The coordinator's in-the-field contact with the consultant provides first-hand knowledge of the personnel and methods involved. When any schedule slips or speed-ups are identified, there is an opportunity to initiate consultation and negotiation, if changing field situations demand it. *The archaeological coordinator, however, does not supplant the consultant's field director in matters of professional judgment, unless violations of standard professional practices threaten the credibility of*

¹⁶ And FHWA for non-assigned project.

the final report. Refer any unresolved differences between the coordinator and the field director to the Caltrans contract manager and the consultant's principal investigator.

Consultant-prepared Archaeological Survey Reports, XPI Proposals and Reports, Archaeological Evaluation Proposals and Reports, Data Recovery Plans, Phase III Proposals, and Data Recovery Reports are submitted to the DEB and/or headquarters CSO for PQS and DEBC review. Caltrans has a minimum of fifteen (15) working days for the review (see [Section 5.13](#)). The Caltrans DEBC will notify the consultant of document approval or requested revisions.

5.10 Construction Monitoring and Post-Review Discoveries

5.10.1 Effective Monitoring

Despite Caltrans' efforts to identify archaeological properties, significant archaeological resources may be uncovered as grading occurs at a known site or at a previously inaccessible location. An archaeologist may be assigned to monitor construction work for the purpose of identifying and evaluating such newly discovered resources. *Monitoring is not a substitute for adequate pre-construction identification efforts.*

Effective monitoring requires that the archaeologist work closely with Caltrans' and the contractor's field personnel, and in some cases with Native American monitors. All participants need to understand clearly:

- The nature of the archaeological concerns at the location
- Various participants' responsibilities
- Construction schedules and procedures
- The chain of command for dealing with any new archaeological discoveries

A monitoring plan should discuss chain of command and decision thresholds for what constitutes an archaeological property.

5.10.2 Planning for Post review Discovery

If during the identification phase, no eligible properties are identified despite a thorough level of effort appropriate to the scope of her project's potential effects, yet the area remains sensitive for buried deposits, a Discovery Plan is advisable. The plan would support a finding of No Adverse Effect or might be attached to an MOA and would be submitted to CSO for review and forwarding to SHPO in accordance with [Section 106 PA Stipulation X](#) and [Stipulation XV.A](#). In most cases, development of a MOA will add significant time to the project schedule, when compared to carrying

out proper identification efforts. [Exhibit 5.11](#) provides guidance on effective monitoring and planning for late discoveries.

5.10.3 Post-Review Discovery – No Plan in Place

When a discovery occurs and there is *no plan* in place, Caltrans must follow [Section 106 PA Stipulation XV.B/5024 MOU Stipulation XIV.B](#). [Exhibit 5.12](#) contains guidance on the procedures to use when there is a post-review discovery without a plan in place.

5.10.4 Safety Concerns While Monitoring

Safety concerns are particularly important in construction situations. The archaeological monitor must be adequately aware of the operating methods of heavy equipment, adjacent traffic conditions, safety policy with respect to exposed cuts and trenches, and hazardous materials potentially present at the site. See [Section 5.3.6](#) for guidance on field safety.

If significant archaeological remains are encountered, it may be necessary temporarily to divert construction work away from the location of the finds, to allow the finds to be properly assessed, documented, and/or recovered. The monitor contacts the Resident Engineer who will redirect any work.

Because delays may cause serious impacts to the construction schedule, the archaeological monitor should have a clear understanding of the thresholds for such discoveries.

5.10.5 Recovery of Artifacts During Construction

Contingency arrangements may include having the appropriate excavation gear available at the site and having a plan to mobilize additional archaeological assistance.

Any archaeological specimens that are recovered will require analysis, reporting, and curation. In part for this reason, it is generally undesirable to recover materials that do not have interpretive significance, or that are redundant with specimens previously documented for the site.

There is no standard Caltrans format to report on construction monitoring. The amount of documentation that is appropriate will vary. At a minimum, the monitor should prepare a memorandum to the files documenting that the mandated monitoring was performed. The memorandum should include the following information:

- Archaeological monitors and their qualifications

- Dates of monitoring
- Portions of the project area for which monitoring was done
- Conditions of work
- Results in terms of any archaeological remains encountered
- Any other relevant observations

If significant artifacts or features are encountered and are either documented or recovered, a more formal and extensive report is appropriate, following the general guidelines of the Data Recovery Report ([Exhibit 5.8](#)).

5.11 Archaeological Study Permits

Permits of one type or another are required before conducting archaeological studies on public or private lands. The process for obtaining permits varies considerably, depending on factors such as whether the land is public or private, what other agencies are involved, and within which Caltrans district the project is located. Typically, Caltrans cultural resources staff or their contracted consultants obtain permits for public lands, while Caltrans ROW agents will obtain permission to enter for private lands.

The primary federal agencies requiring permits for Caltrans projects are:

- Bureau of Land Management (BLM)
- U.S. Forest Service (USFS)
- National Park Service (NPS)
- Bureau of Indian Affairs (BIA) issues ARPA permits for excavations on tribal lands

State agencies that may require permits include:

- California Coastal Commission (Commission)
- Department of Parks and Recreation (DPR)
- Department of Fish and Wildlife (CDFW)

Table 5.1 outlines the permits required and the processing time to expect.

TABLE 5.1
GOVERNMENTAL PERMITS

	SURVEY	LEAD TIME*	EXCAVATION	LEAD TIME*
Federal				
USFS	Special Use Permit	4-6 weeks	Special Use Permit**	8-10 weeks
NPS	Special Use Permit	4 weeks	Special Use Permit**	8 weeks
BLM	Fieldwork Authorization	1-2 weeks	Cultural Resource Use Permit**and Fieldwork Authorization	8-10 weeks
State				
DPR	DPR 412	4-6 weeks	DPR 412	8-10 weeks
Other	(contact agency)		(contact agency)	
<p>* listed times depend on the schedules of personnel in outside agencies and can be longer **these permits are issued under and satisfy the ARPA requirements USFS = U.S. Forest Service NPS = National Park Service BLM = Bureau of Land Management DPR = California Department of Parks and Recreation.</p>				

The permitting agency reviews permit applications to ensure that the application is complete, the proposed work is appropriate, and the personnel, organization, and curation facility are qualified. Individuals who meet Caltrans PQS qualifications for Principal Investigator should qualify to direct excavations under these permits.

5.11.1 Federal Permit Legislation

Permits for archaeological studies on federal land may be issued in accordance with the following legislation and implementing regulations, depending on the agency involved:

- *Organic Administration Act of June 4, 1897 (Chapter 2, 30 Stat 11, as amended, 16 USC 473-475, 477-482, 551)* in part directs the Secretary of Agriculture to protect National Forests and regulate their occupancy and use. The permit is issued under the provisions of [16 USC 551](#).
- *Antiquity Act of 1906 (Chapter 3060; P.L. 59-209; 34 Stat 225; 16 USC 431-433; 43 CFR 3)* This act in part ([16 USC 432](#)) directs the Secretaries of Interior, Agriculture, and War to grant permits subject to the rules and regulations they may prescribe for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity on lands under their respective jurisdictions. This act’s authority to regulate the taking of archaeological materials has been replaced by the Archaeological Resources Protection Act (see below) because of

conflicting federal circuit court decisions as to the validity of the Antiquity Act's provisions regarding cultural items. No permits should actually be issued under the auspices of this act.

- *The Federal Land Policy and Management Act of 1976 [FLPMA]* (P. L. 94-579; 43 USC 1701-1784) provides in part for the periodic and systematic inventory of public lands and their resources, and the management of the resources in a manner that will protect the quality of the land. The permit is issued under [43 USC 1732](#) and [P.L. 94-579 Section 302\(b\)](#).
- *Archaeological Resources Protection Act of 1979 [ARPA]* (P. L. 96-95; 93 Stat 721; 16 USC 470 aa-11; 36 CFR 229; 43 CFR 7) provides primarily for the protection of archaeological resources on federal lands and Indian lands. A permit is required for the surface collection and/or excavation of sites 100 years or older ([16 USC 470cc](#)). The implementing Uniform Regulations for ARPA were published in the *Federal Register*, Volume 29, No. 4, Friday January 6, 1984, with supplemental regulations issued in the *Federal Register*, Volume 52, No. 55, Monday, March 23, 1987. Identical regulations for the different federal landholding agencies appear under different titles of the Code of Federal Regulations; thus the implementing regulations for the US Department of Defense is [32 CFR 229](#), and the regulations for the BLM and the NPS (Department of the Interior) can be found under [43 CFR 7](#).

All ARPA permit applications that involve collection and/or excavation are submitted by the permitting agency to the Native American group for whom the site or area may have cultural or religious significance for a 30-day review and comment period. The permitting agency will also require additional notification and consultation if the activity proposed may result in the excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony as provided for in subpart B of the Native American Graves Protection and Repatriation Act (NAGPRA) regulations ([43 CFR 10](#)).

Bureau of Land Management (BLM) Cultural Resource Use Permit

The BLM issues permits for two levels of study. The non-collection survey/recordation permit, issued under FLPMA, authorizes non-disturbing pedestrian survey and limited subsurface probing for mapping purposes only (e.g., determination of boundaries). No collection of artifacts, except isolated artifacts not associated with an archaeological site, is allowed under this permit. To remain in compliance with the permit, Caltrans must provide copies of any reports discussing work conducted under such permits to the agency.

Caltrans has a statewide non-collection survey/recordation permit for survey on BLM lands. CSO maintains a list of staff who are identified on the permit. The archaeologist conducting the survey must notify the appropriate BLM Field Office Manager before any fieldwork begins and will be required to submit a fieldwork authorization request. The authorization to conduct fieldwork may be granted immediately, or it may take one to two weeks (see below).

An ARPA permit is issued on a project-specific basis for activities that may disturb the research potential of the site. These activities include limited testing, excavation, and collection. Two copies of the application, including supporting documentation, are submitted to the BLM State Director, California State Office, Sacramento. A complete copy also should be forwarded to the appropriate (local) Field Office at this time. The BLM Field Office submits the application package to the designated Native American group for a 30-day review period. Caltrans, as the applicant, should anticipate a minimum period of 8-10 weeks before an ARPA permit is granted. This allows for review by the Native Americans and the BLM and for inter-agency transmittals of the application.

The BLM permitting process involves two levels of approval:

- 1) For *survey projects*, the archaeologist conducting the survey submits the Fieldwork Authorization form only to BLM staff at the local level (i.e., the appropriate BLM Field Office Manager).
- 2) For *collection or excavation projects*, the archaeologist conducting the work must submit an application for the Cultural Resource Use (ARPA) Permit to the state headquarters of the BLM.

If Caltrans is contracting the work out, the contractor conducting the work must be the applicant for the Cultural Resource Use Permit. It is strongly recommended that a copy of the application also be forwarded to the local BLM Field Office at this time, in order to keep local staff apprised of the status of the project. The Deputy State Director, Division of Natural Resources, then signs the permit.

Once the permit is issued, the applicant must submit another Fieldwork Authorization form to the appropriate BLM Field Office before initiating fieldwork. This serves to ensure that the Field Office is properly notified and that the schedule of the permitted activity does not conflict with other concurrent activities or conditions in the field. The Field Office Manager is notified by the applicant submitting a Fieldwork Author-

ization request form (which describes the personnel involved, location, and period of the proposed fieldwork). The appropriate BLM Field Office Manager must authorize any fieldwork under this permit before fieldwork commences.

U.S. Forest Service (USFS) Special Uses Permits

The USFS issues permits under the Organic Administration Act of 1897 or ARPA, as outlined in [36 CFR 251.50](#) *Special Uses Permits*. The procedures and requirements for obtaining a permit vary between Forests, as does Forest organizational structure.

Special Use Permits are issued for two levels of study:

- 1) Survey (including limited subsurface testing for boundary definition)
- 2) Surface collection, testing, or data recovery excavations. For either type of permit, the lead archaeologist initiates the application process by contacting the appropriate Forest Archaeologist

Either the forest supervisor or the district ranger reviews and approves the application for a survey permit. A review period of 30 days can be anticipated.

The USFS submits the permits for surface collection or excavation to the Pacific Southwest Region headquarters for review, approval, and issuance of the permit. The permitting process may take several months.

The project archaeologist notifies the district ranger of the date fieldwork will be initiated. The district ranger approves this date in writing.

National Park Service (NPS) Cultural Resource Special Use Permits

National Park Service permit requirements for surveys depend on the nature and scale of the proposed project. The NPS issues permits under ARPA for all collection or excavation. To initiate the permit process, the project archaeologist calls the appropriate Park office and the NPS Pacific West Regional Office. Two copies of an application and attachments are prepared and sent to the Pacific West Regional Director for approval. The time for processing the permit is typically four weeks for survey and eight weeks for excavations.

5.11.2 California Permit Legislation

California Department of Parks and Recreation (DPR) Permits

Archaeological investigations or collection within the boundaries of units of the State Park System require a permit. This permit is issued for surveys under a DPR Resource Management Directive. Permits for excavations are issued under the provisions of [PRC 5097.5](#), which states that permission is necessary to excavate or remove any archaeological, paleontological, or historical feature situated on public lands from the agency having jurisdiction over that land.

Four copies of an "Application and Permit to Conduct Archaeological or Paleontological Investigations/Collections on Lands of the State of California (DPR 412)" are submitted to the district superintendent or to the supervisor of the cultural heritage Section. The permit is reviewed by the district superintendent, the supervisor of the cultural heritage section, as well as by the manager for archaeological collections if the requested permit is for an excavation. Review period is ten (10) working days. The regional director signs approval of the permit. Once the permit is granted, the project archaeologists must contact the district superintendent or designee before beginning fieldwork.

California Coastal Commission Permits

Archaeological excavation undertaken in the coastal zone may require a permit under the authority of the [California Coastal Act of 1976](#) (Public Resources Code, Division 20). The Commission may issue a Coastal Development Permit for archaeological undertakings. When appropriate, the permit requirements may be waived. To determine whether such a permit is needed, the project archaeologist contacts the appropriate district office of the Commission.

For some cities and counties the Commission has approved local Coastal Plans (LCPs). The Commission's district office can indicate whether the permit must be obtained from a local agency. Archaeological requirements for permits issued under various LCPs vary.

California Department of Fish and Wildlife (CDFW) Permits

In rare cases, permits from the Department of Fish and Wildlife (CDFW) may be required for archaeological excavations involving streams or rivers. If an archaeological excavation is conducted in a stream or riverbed or on adjacent banks, a Section 1601 Permit may be required. When considering the use of wet screening, it should be noted that some streams are off-limits for any such use because of their sensitivity

to siltation. Others have various seasonal restrictions, and still other streams have unrestricted use. If the excavation will include wet screening that allows archaeological deposits to flow into the watercourse, a Suction Dredge Permit may be required. The appropriate CDFW Regional Office should be contacted to determine whether a permit is needed. Contacts should be coordinated through the district biologist.

Right of Entry Permits / Private Land Owner Permission Agreements

A district ROW agent normally obtains right of entry for archaeologists and other environmental specialists conducting studies on private land. However, it is the responsibility of the project archaeologist to inform the environmental planner and/or ROW agent of his or her needs in this regard. Coordination between the archaeologist and the environmental planner and/or ROW agent should take place as early as possible because substantial time may be required to obtain the permits for large surveys.

The district ROW agent contacts the private landowner and seeks written permission to enter, giving the following information:

- Proposed survey or excavation activities
- Duration of access
- Archaeological project's potential effects on the property

Written permission is required for all excavations, in order to protect the owners against damage or interference with possession or use of the property, and to absolve them of liability in the event of accident.

Because the owner is agreeing to specific conditions, it is important that the project archaeologist plan a field strategy as completely as possible *prior* to the ROW agent contacting the landowner, thus avoiding having to ask permission a second time to add additional activities that might be of concern to a landowner (such as use of a backhoe). If there are verbal objections to survey work, or if written permission for excavations cannot be obtained, the DEBC and the CSO Chief should be notified. It is possible to obtain entry through the “Right of Eminent Domain,” but this is an extreme step that is rarely used.

Archaeological materials recovered from private lands legally are the landowner’s property and may be retained by the landowner. Caltrans must obtain written permission from the property owner to curate the recovered material. This issue should be addressed in the original letter requesting permission to excavate. Failure to obtain this permission will not necessarily affect achieving project compliance. However,

Caltrans must try to ensure that archaeological materials will be stored properly and that they will be accessible to qualified researchers upon request. Every effort should be made to convince the landowner of the value of proper curation for all site artifacts.

5.12 Archaeological Studies: Preconstruction, Maintenance, Excess Property Disposal, and Encroachment Permits

The DEB responsibilities toward cultural resources and coordinating with Native American Tribes, groups or individuals are outlined in [Chapters 1](#) and [3](#). These responsibilities extend beyond project specific situations to include any Caltrans activities that have the potential to affect cultural resources. This section addresses these activities and the concomitant responsibilities of the district to ensure protection of archaeological resources.

The DEB provides archaeological studies for preconstruction and maintenance activities that involve ground disturbance within the existing right-of-way. Follow Caltrans archaeological procedures outlined in the preceding sections when archaeological resources are identified and the archaeological resource cannot be avoided nor can the proposed work be abandoned.

Consult the DEBC before the disposal of excess parcels and before issuing an encroachment permit to ensure environmental compliance. For excess parcels, the Branch will conduct a survey of the parcel and document the survey. For encroachment permits, environmental compliance is the responsibility of the permit applicant. The Caltrans PQS reviews the proposal of archaeological work and the resulting studies for compliance with Section 106 and the stipulations in the Section 106 PA, CEQA and PRC 5024 and the stipulations in the 5024 MOU (when state-owned archaeological resources are involved). [Chapter 2](#) discusses the process for compliance with CEQA and PRC 5024.

5.12.1 Preconstruction Studies

Section 106 compliance should be completed prior to the approval of the expenditure of any federal funds on the undertaking, or prior to the issuance of any license or permit. It is often necessary, however, to conduct project-planning studies prior to completion of Section 106 consultation. Such studies might include hazardous materials testing, soil borings, percolation tests, etc. The regulations at [36 CFR 800](#) recognize this need and allow for some flexibility in carrying out the Section 106 pro-

cess. 36 CFR 800.1(c) states that the requirement to complete the Section 106 process prior to approval of the undertaking

... does not prohibit agency official from conducting or authorizing nondestructive project planning activities before completing compliance with section 106, provided that such actions do not restrict the subsequent consideration of alternatives to avoid, minimize, or mitigate the undertaking's adverse effects on historic properties.

Note that such activities must be nondestructive to potential historic properties and must not restrict consideration of alternatives.

When preconstruction activities that involve ground-disturbing work are necessary, the project team leader must contact the DEBC. Caltrans PQS review the proposed studies and identify any cultural resources that may be affected by the proposed work. The DEBC usually has the information needed to evaluate the potential impacts of preconstruction activities in the form of environmental analyses already conducted for the proposed construction work. An archaeological survey, however, may be needed if those analyses have not been done. Then, the Caltrans PQS may work with the Project Team Leader to redesign the preconstruction activity to avoid any effect to potential historic properties. If avoidance is not possible, the activity is subject to consultation under the [Section 106 PA](#).

5.12.2 Maintenance Projects

The district Maintenance Engineer is responsible for consulting with the DEBC, and the DEBC needs to continually apprise the district Maintenance Engineer of the location of resources that could be disturbed by maintenance operations. Maintenance operations that have the greatest potential for impact to archaeological resources include those activities that involve the removal, grading, and filling of material, and trenching within the right-of-way. An archaeological survey may be needed to identify any archaeological resources. If resources are identified, CEQA and/or PRC 5024 and the stipulations in [5024 MOU](#) (for state-owned archaeological resources) apply; either the resources are avoided, or the studies outlined above, are followed in order to comply with the applicable state law(s).

5.12.3 Excess Property Disposal

Excess parcel disposal is usually subject only to state laws and regulations, but also may be subject to federal laws and regulations if a federal agency initially participated in acquiring the parcel or in associated construction. For the former, however, if

the participating federal agency has since relinquished the parcel and Caltrans was reimbursed, then the disposal is treated as a state-only action.

The DEBC ensures review of *all* excess property proposed sales for environmental considerations, including the presence of archaeological resources. As part of this review, an archaeological survey may be required. The survey is documented in an ASR.

If archaeological resources are present, conveyance of the parcel is contingent on compliance with CEQA, with the stipulations in the PRC 5024 MOU [Stipulation XVI](#) and Attachments [5](#) and [6](#) for state-owned parcels, and with Section 106 and Section 4(f), if applicable. Pursuant to the [California Streets and Highway Code, Section 118.6](#), the excess parcel with an archaeological site must be offered for sale or exchange to appropriate public agencies operating parks and recreational areas *before* the parcel can be offered to the public. The prospective buyer is informed of the presence of the archaeological resource(s) and their responsibilities for obtaining the appropriate environmental compliance as a condition of the sale. The Director's Deed and Notice of Terms of Sale both need to include protective covenants or conservation easements that govern the preservation of the archaeological site(s).

These protective covenants or conservation easements include:

- 1) "Adequate restrictions or conditions [to] ensure preservation of the property's significant historic features" to satisfy Section 106 and PRC 5024 or
- 2) The establishment of a preservation easement to protect the site as noted in CEQA. The buyer also may proceed with additional archaeological studies to comply with state and federal law, as appropriate

Further guidance on the laws and procedures related to the disposal of excess property that may contain archaeological sites is provided in [Exhibit 2.17](#). See also [Chapter 2 Section 2.8](#) and [Section 2.9](#) regarding state-owned resources.

5.12.4 Encroachment Permits

Caltrans PQS must review encroachment permit applications involving ground-disturbing activities to determine whether there are archaeological concerns. The DEBC determines:

- Whether an archaeological survey is needed and
- Whether Caltrans or the applicant will conduct the survey.

As with Caltrans' own surveys, the decision to survey is based on the nature of the proposed activity and the sensitivity of the location for archaeological resources

If archaeological resources are identified, the permit holder must submit a proposal of archaeological work to be performed to the DEBC for review. The DEBC reviews the proposed work to determine whether it meets Caltrans standards. The permit holder must provide with documentation of compliance with appropriate state or federal historic preservation laws and archaeological compliance *before* the permit is issued.

Each permit is issued with General Provisions and Special Provisions that the permit holder must fully carry out. The General Provisions include the requirement that the permit holder must:

- 1) "Cease work" in the vicinity of any archaeological resources that are revealed
- 2) Notify the Permit Engineer immediately of such a find

Then, a qualified archaeologist retained by the permit holder must evaluate the situation and make recommendations to the Permit Engineer concerning continuation of work. Special Provisions may further address archaeological concerns. The DEBC may be called upon to inspect the work under a permit.

5.13 Peer Review and Approval of Archaeological Documents

Prior to the distribution of the archaeological studies, reports and documents, there need to be *three* reviews:

- 1) District or CSO PQS, who is someone other than the author(s) of the documents, must peer review the Caltrans staff- and consultant-prepared draft documents.
- 2) District PQS must review and *approve* the final document, under the terms of the Section 106 PA [Stipulation XVIII/5024 MOU Stipulation XVII](#). For Caltrans-prepared documents, if the Caltrans PQS is certified at the appropriate PQS level, his or her signature on the final document as document preparer also signifies review for DEBC *approval*.
- 3) DEBC must review and approve the final document.

5.13.1 Peer Review

Peer reviews are considered part of the report preparation process. Peer reviewers can be identified in the acknowledgement section of the archaeological documents or in a table of personnel working on the environmental studies. That is separate from PQS approval of completed documents prior to submittal, which is required under the Section 106 PA. See [Section 5.13.2](#) below.

In accordance with Caltrans Quality Assurance and Quality Control policy and the Section 106 PA [Stipulation XVIII/5024 MOU Stipulation XVII](#), Caltrans PQS certified in the relevant discipline at the Co-Principal Investigator level or higher¹⁷ must peer review:

- Archaeological Study Reports
- Extended Phase I Proposals
- Extended Phase I Reports
- Archaeological Evaluation Proposals (formerly called Phase II proposals)
- Archaeological Evaluation Reports (formerly called Phase II reports)
- Data Recovery Plans
- Phase III Proposals
- Phase III Reports

Draft versions of curation agreements, monitoring plans, post review discovery plans and construction impact reports also require peer review by a Caltrans PQS Principal Investigator. Either district or CSO PQS may conduct the peer review.

If a DEBC requests peer review by another district or CSO PQS, the DEBC submits the request to the appropriate DEBC or to the appropriate CSO Branch Chief. Such reviews, whether in the district or in CSO, will be completed within fifteen (15) working days of receipt of the request. However, longer review periods may be allowed at the discretion of the DEBC. [Chapter 2 Section 2.5.5](#) discusses Caltrans internal review guidelines.

Likewise, CSO PQS certified at the Principal Investigator¹⁸ level in the relevant discipline peer review the CSO-prepared draft archaeological documents. Upon approval, the CSO Branch Chief or CSO Office Chief transmits the CSO-prepared documents to the requesting DEBC. Upon receipt, the DEBC has ten (10) working days to

¹⁷ See [Exhibit 2.11 Table C](#)

¹⁸ However, Co-Principal Investigators or higher may peer review ASRs.

comment on the draft document, after which it is assumed to have met with the DEBC's approval.

The process for resolving disagreements and differences of opinion regarding Caltrans or consultant-prepared findings is outlined in [Chapter 2 Section 2.11](#).

5.13.2 Caltrans Review and Approval of Archaeological Documents

Following peer review (whether by district or CSO PQS), and any necessary revisions based on comments received, the report preparer signs the title page of the final archaeological document and the final document is reviewed for approval by a Caltrans PQS at the appropriate level; see [Exhibit 2.11 Table C](#). If a Caltrans PQS has not prepared the document, then the responsible PQS indicates review and *approval* by signing the title page. The DEBC finally reviews and formally approves the document by signing the title page.

5.13.3 Report Distribution

The district PQS is responsible for ensuring that the appropriate archaeological documents are attached to the HPSR, HRCR, or Finding of Effect, or are distributed separately and that the correct number of copies is sent to CSO and others, as appropriate. [Exhibit 2.11 Table B](#) lists the copies of approved archaeological documents that are required. See [Chapter 2](#) for specific guidance on transmitting reports to FHWA and SHPO.

The district keeps a record of the peer review in its files. The transmittal memo accompanying the approved archaeological documents identifies the peer reviewers of documents. For federal undertakings, if the transmittal memo to the DEBC provides any recommendations concerning the resource, a copy of the memo is included in the package sent to the CSO Section 106 Branch Chief.

5.14 State-Owned Archaeological Resources

In addition to compliance with federal and state laws relative to archaeological resources, Caltrans also must comply with PRC 5024 when state-owned archaeological resources are involved. Pursuant to PRC 5024(d), archaeological sites that are listed in the NRHP or are registered as California Historical Landmarks are listed on the Master List of State-Owned Historical Resources (Master List). The Master List does *not* include state-owned archaeological resources that have been determined eligible through a consensus determination under Section 106 or PRC 5024 and it does not include state-owned archaeological resources that Caltrans has assumed eligible for the purposes of an undertaking under Section 106 or under PRC 5024 assumed eligible only for the purposes of a project or activity. [Chapter 2 Section 2.8](#) contains guidance on the applicability of PRC 5024, while [Section 2.9](#) provides guidance on the documentation needed to consult with SHPO on state-owned archaeological resources. Questions about the applicability of PRC 5024 to archaeological sites may be directed to the CSO Built Environment Preservation Services (BEPS) Branch Chief.

Chapter 6: Historical Archaeological Resources: Evaluation and Treatment

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Chapter 6

Historical Archaeological Resources: Evaluation and Treatment

6.1 Introduction

This chapter presents Caltrans' policies and procedures for evaluating and treating historical archaeological resources, including sites and districts composed of historical archaeological sites. In California, the historic era generally is defined as the period following initial Euro-American exploration in the region and establishment of the first Spanish mission in 1769. Sites, as used in this chapter, specifically encompass both historical archaeological sites and those places identified as Traditional Cultural Properties (TCPs). These procedures have been developed to comply with Section 106 of the National Historic Preservation Act of 1966, as amended, and the provisions of the Section 106 Programmatic Agreement ([Section 106 PA](#)ⁱ). The same general process is also used for compliance with the California Environmental Quality Act (CEQA); for state-owned cultural resources the provisions in the Public Resources Code 5024 Memorandum of Understanding ([5024 MOU](#)ⁱⁱ) are used.

Throughout this chapter the term “historical archaeologist” means Caltrans staff who are certified as Principal Investigators - Historical Archaeology under the Professionally Qualified Staff (Caltrans PQS) requirements of the Section 106 PA and 5024 MOU and consultants who meet the same qualifications (see [Section 106 PA/5024 MOU Attachment 1](#)).

For federally assisted state and local projects, as well as state-only projects, there are two types of reports that are used to document historical archaeological resources:

- 1) The Cultural Resources Letter Report (Letter Report) is used *only* when the provisions of the Section 106 PA do not apply, such as for projects involving tribal land or state-only funds. It is used only to document cultural resources that have no potential for meeting the eligibility criteria for inclusion in the National Register of Historic Places (NRHP); see

ⁱ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid High-way Program in California*, effective January 2014.

ⁱⁱ *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*, effective January 2015.

[Section 6.5](#) and [Exhibit 6.1](#). The Letter Report is attached to the project's Historic Property Report (HPSR), or for state-only projects, the Historical Resources Compliance Report (HRCR).

- 2) The Historical Resources Evaluation Report (HRER) is used to document evaluations of all types of historical archaeological resources. Section 6.10 and [Exhibit 6.2](#) contain detailed instructions for completing an HRER. Caltrans sends the HRER to SHPO as an attachment to the HPSR Section 106 consultation package (see [Chapter 2](#) for guidance on preparing an HPSR and SHPO consultation). For state-only projects, the HRER is attached to the HRCR.

When archaeological excavation is required to identify or evaluate a site, the historical archaeologist prepares a proposal for an Extended Phase I (XPI) or a Phase II excavation (See [Exhibits 5.2](#) and [5.4](#)). Prior to implementation, a historical archaeologist who is qualified at the Principal Investigator level peer reviews the document (peer review procedures are discussed more fully below and in [Section 6.16](#)). The XPI and Phase II proposals are in-house documents used to guide Caltrans activities. The historical archaeologist reports the results of excavation and, if appropriate, site evaluation, in the HRER. Caltrans uses other report formats to plan for data recovery or post-review discoveries and to report the results of data recovery (Phase III) studies.

This chapter builds on the guidance contained in [Chapter 5](#) on general archaeological studies. It begins by discussing the qualifications needed to evaluate different types of historical archaeological resources. Subsequent sections then discuss the evaluation process for historical archaeological resources that do not require excavation, the evaluation process for historical archaeological resources requiring excavation, the preparation of HRERs, treatment procedures necessary to complete the Section 106 process, and compliance procedures for state-only projects.

6.2 Professional Qualifications

Qualifications required for evaluation and treatment of historical archaeological properties are dependent on the nature of the resources present. Multi-disciplinary teams may be necessary. See [Chapter 1](#) Section 1.3.4 and [Section 106 PA/5024 MOU](#) Attachment 1 for a discussion of minimum standards and guidelines, as well as certification levels under the Section 106 PA. Under the Section 106 PA, staff must meet the minimum qualification levels for Co-Principal

Investigator (Co-PI) or Principal Investigator (PI) to evaluate historical archaeological sites. [Exhibit 1.6](#) Table 1 describes the PQS levels required to perform archaeological activities and Table 2 describes PQS levels to complete the accompanying studies and construction monitoring. Those not fully qualified as historical archaeological Principal Investigators (PI) may perform many tasks with under direct supervision of historical archaeologists qualified at the PI level. Note that a Caltrans PQS at the PI level for historical archeology must peer review all historical archaeological work completed under the terms of the Section 106 PA.

Certification as a Caltrans PQS for PI historical archaeologist is generally required to assume lead responsibility for evaluating historical archaeological sites. PI-level prehistoric archaeologists may also evaluate historic-era Native American archaeological sites. Co-PI-level historical archaeologists, under the direction of a PI-level historical archaeologist, may evaluate historical archaeological sites that do not require excavation (See [Exhibit 1.6](#) Table 1).

Interdisciplinary Approach

Caltrans PQS architectural historians and consultants meeting the same qualifications (see [Section 106 PA/5024 MOU](#) Attachment 1) are trained in historical research, may provide valuable assistance with background research for evaluations of historic-era archaeological sites, and may need to be consulted prior to evaluating these resources. An effective interdisciplinary team includes qualified architectural historians and historical archaeologists who collaboratively evaluate resources with both built and historical archaeological elements, as well as other types of cultural resources such as ruins of buildings and structures, cultural landscapes, battlefields, cemeteries, and the locations of important events. In addition, professionals with knowledge of cultural geography, the history of technology, folklore, and social history, to name a few, also may add valuable insights to understanding material culture. Sometimes this expertise is best obtained via consultant contract. For a discussion of properties requiring study, see [Chapter 4](#) Section 4.4.2 for archaeological properties and discussion of built-environment resources in [Chapter 7](#), particularly Sections 7.4 and 7.8.5. Teams may be created from a combination of District Caltrans PQS, Headquarters PQS, or appropriately qualified consultants. Send requests for assistance from Headquarters staff to the Chief of the Cultural Studies Office (CSO).

6.3 Gathering Information

The amount and types of information needed to complete the evaluation of a historical archaeological site will depend on the type of resource, its integrity, and the quality of available information about it. Caltrans PQS will determine when to contact the appropriate Information Center for a records search and will specify the level of information needed. Local

agencies should be advised not to order record searches unless Caltrans PQS determine that it is necessary.

Historical archaeological resources that meet the criteria for “Properties Exempt from Evaluation” in [Section 106 PA/5024 MOU](#) Attachment 4 clearly have no potential to be eligible for the NRHP and need not be evaluated. Only appropriately qualified Caltrans PQS (Co-Principal Investigator for historical and prehistoric archaeology and above) or similarly qualified consultants may exempt such properties, as outlined in Attachment 4. The information gathered during the identification phase may sometimes be sufficient to make such summary conclusions without further research. [Exhibit 4.2](#) contains guidance on sources of information. [In special circumstances, such as on tribal lands where the Section 106 PA does not apply but there are resources that meet the criteria for exempt properties as outlined in Section 106 PA Attachment 4, appropriately qualified Caltrans PQS or consultants may address such properties in a Letter Report. [Section 6.5](#) and [Exhibit 6.1](#) contain guidance on using Letter Reports.] All other historical archaeological resource evaluations should be documented in an HRER (see [Section 6.10](#)).

Information gathered as a result of identification activities such as background research, reconnaissance survey, and archaeological survey will usually need to be supplemented with additional research in order to complete evaluations of all but the most compromised resources. Additional historical research, interviews with knowledgeable individuals, or limited archaeological excavation, depending on the nature and complexity of the resource and the quality of available historical information, also may be necessary. Because of the expense and time involved in archaeological excavations, testing is normally undertaken only when there is a clear potential that the work will yield important information.

Historical research (which should encompass a review of the relevant literature as well as property-specific research, including interviews) *always precedes excavation* because it provides the justification for any necessary excavation program.

The nature of the resource, amount and quality of available documentary information, and current research issues will determine whether archaeological excavation may be appropriate and necessary. When archaeological excavation is conducted to determine site boundaries (e.g., Extended Phase I studies) or complete an evaluation (e.g., Phase II studies), historical archaeologists prepare an HRER according to the instructions provided in [Exhibit 6.2](#). Staff should also follow the background sections of the guidance in [Chapter 5](#).

6.3.1 Historical Research

The likely areas of significance of a historical archaeological resource and its physical condition guide the amount and depth of historical research needed. It is important to develop the proper historic context and to identify the site-specific data that allow its placement within that context. Background research also involves consideration of the scope and findings of previous research on similar types of sites. Historical archaeologists use all of this information to develop important research themes and specific questions within a regional or theoretical context and to identify data requirements that can be used to measure the significance of resources.

Historical research may be conducted in collaboration with historians and architectural historians, as described elsewhere in the chapter. When conducting historical research:

- Begin by using secondary sources to develop a general context for the project area. Secondary sources may help focus the research effort by revealing useful sources of information, informants, and other details.
- Next, use primary sources, as needed, to develop suitable contextual and site-specific details.

Refer to [Exhibit 4.2](#) and [Chapter 7 Section 7.6.2](#) for information on sources of information.

Gathering property-specific information will usually entail some use of primary sources. The depth of research conducted in primary records will depend on the particular values a historical archaeological resource is likely to possess and the availability of secondary information about it. Some primary sources such as Caltrans “as-built” plans; U.S. Bureau of Land Management land status, mining, and old Government Land Office survey plats and notes; and historic U.S. Geological Survey quadrangle maps already should have been consulted during the identification phase discussed in [Chapter 4 Sections 4.4](#) and [4.5](#) and [Exhibit 4.2](#). CSO staff in Headquarters can provide assistance regarding information sources located in Sacramento, such as the California State Library and California State Archives.

6.3.1.1 Developing the Historical Overview

The historical overview, or historic context, consists of a broadly stated chronological history of the present study area, focusing on:

- Initial settlement.
- Economic development.
- Historic events that occurred in the area.

- Factors of industrial and commercial development.
- Transportation and supply networks.
- Other aspects of the area's history that may have a bearing on understanding the importance of the property under consideration.

This overview should focus on significant patterns that may be represented by the resource. Avoid lengthy discussions that lack relevance. Often historical overviews covering the same geographical area were developed in reports prepared for other documents. It is acceptable to use these overviews and focus time and effort on researching applicable themes that were not addressed in earlier reports, as appropriate (see also [Chapter 4](#) Section 4.8.1).

6.3.1.2 Site-Specific Discussion

A site-specific discussion should include information on property ownership, periods and types of indicated use, descriptive information concerning the physical features that existed at the site during the historic period, and modifications or disturbances to the resource that may have affected its integrity. The nature of the particular resource and its integrity will determine the type of information needed for the site-specific study. If the property appears to have good integrity and will require excavation to determine its eligibility, detailed research is normally required to provide a context for framing important questions that will be used to evaluate the research potential of the property.

6.3.1.3 Interviews

Interviews with knowledgeable informants often provide essential information for determining the eligibility of historical archaeological sites. Informants also frequently provide valuable information about other kinds of resource types, particularly those occupied within living memory. In both cases, informants may provide valuable information about historic activities and resource values, the kinds of physical evidence likely to be present at a property, and the integrity of the resource. As such, it is important to make reasonable efforts to identify knowledgeable individuals, gather relevant information, and critically evaluate those data. Appropriate contacts may include current and former property owners or their heirs, local historical societies, and technical experts in fields such as the history of technology.

Professional training and interviewing experience are prerequisites for those who gather oral history information. The interviewer must observe appropriate ethical practices throughout the interview process to guard against breaches of confidentiality, to facilitate rapport with the informant, and to build his/her trust, which are all essential for effective data collection.

The following practices are recommended whenever formal interviews are conducted:

- Obtain permission before conducting any audio or videotaping of an interview.
- Give informants an opportunity to review and correct a transcript or notes taken during every interview.
- Ask informants about the confidentiality of the information they have provided and how they would like to see it reported/protected.
- If the report does not contain other confidential information, offer to provide each informant with a copy of any reports, transcripts, and tapes produced as a result of an interview.

Copies of reports going to FHWA, SHPO, and/or the Advisory Council on Historic Preservation (Council) for review and comment may not be released to the informant until *after* these critical agencies have received a copy and have had their regulatory opportunity to comment. *No draft reports may be released.*

As with any other line of evidence, critically review interview data and seek corroboration before using it in the evaluation of a resource. If using uncorroborated interviews, present the unverified information carefully, referring back to its source. Biases may be introduced as a result of a wide variety of factors including, but not limited to:

- The informant's perception of a project, interviewer, or Caltrans.
- Faulty memory.
- Deliberate misrepresentations or exaggerations.
- The way questions are phrased.
- Faulty transmission of second-hand information.

6.3.2 Developing Research Issues

Develop research issues to determine whether the historical archaeological resource may have the potential to yield *important* information as required in NRHP Criterion D. When developing the research issues, survey previous research concerning the type of property in question and formulate important themes or topics that the site might reasonably address and that cannot be addressed through historical research alone. The discussion should clearly explain which research themes and topics are important, why and how they are important, and how information contained within the archaeological site will illuminate and advance in specific ways our knowledge and understanding of historic themes or topics deemed significant. There should be some realistic potential to address the questions posed at the sites under investigation. Clearly defined data requirements should be the basis for assessing the potential value of

any remains discovered at the property. Detailed knowledge of the social context and history of a resource is usually required to formulate research issues for historic-era occupation sites.

6.4 Evaluation of Historical archaeological Resources

6.4.1 Evaluation Criteria and Integrity

A historical archaeological site located within the project APE and that cannot be avoided by the proposed project must be evaluated if it is not otherwise exempt from evaluation. Additionally, such resources often are evaluated even when avoidance is possible in order to determine whether the effort and cost of avoidance is justified.

When evaluation is warranted, historical archaeological resources may be determined eligible for inclusion in the NRHP under any of the four eligibility criteria, but most likely under Criterion D. See [National Register Bulletin 15](#) for guidance on applying the NRHP criteria to the kinds of resources covered in this chapter. For CEQA purposes and when warranted, historical archaeological resources are *simultaneously* evaluated to determine whether they are historical resources for the purposes of CEQA.

How a historical archaeological site reflects any or all of the NRHP criteria is determined by developing the appropriate historic contexts that seek to explain the importance of a property or group of related properties through knowledge of their historical circumstances. Historic contexts identify the period of significance, geographic scope, and historical themes that are used to assess the importance of particular types of properties. Context development should be sufficiently broad to address all potential areas of historical significance defined in the NRHP criteria. However, the themes developed in a historical context should concentrate on the essential physical features or *important* information a resource is most likely to possess.

Evaluations of historical archaeological resources require a closely integrated assessment of both physical and historical evidence, thus a physical inspection of the property should be conducted early in the evaluation process before investing too much effort in historical research.

It is rarely appropriate to conduct extensive historical research when a site is *unlikely* to possess sufficient integrity to either convey its significance under Criteria A, B, or C, or yield important information in history under Criterion D.

The effort spent on historical research and the assessment of physical remains should be sufficient to fully substantiate the findings of the evaluation effort, while remaining commensurate

with the condition (integrity) of the site. For sites with severely compromised integrity, limit the research to gathering basic facts that will support a finding that the resource is not eligible. Always give reasonable consideration to the potential for concealed or buried historical archaeological deposits, even in cases where little surface evidence is discovered during an archaeological reconnaissance survey.

National Register Criteria A, B, or C

For historical archaeological sites, eligibility under Criteria A, B, or C is rare and must be appropriately analyzed in accordance with NRHP guidance. Eligibility normally requires retention of the site's essential physical features and historic appearance as judged in relation to the historic context and the seven aspects of integrity (see sidebar). Loss of integrity exists on a continuum and must be viewed in a comparative framework that takes into account other surviving examples of the type of historical archaeological sites being evaluated.

Aspects of Integrity	
* Location	* Workmanship
* Design	* Feeling
* Setting	* Association
* Materials	

For resources that consist primarily of unmodified natural settings (e.g., some TCPs), integrity is assessed in relation to the likely appearance of the property during the site's period of significance.

The *severity of impairment*, combined with the *scarcity* of the resource type, will influence whether the site still has the ability to convey its importance under Criteria A, B, or C.

Properties that appear to retain integrity, as described in [National Register Bulletin 15](#) and [Bulletin 36](#), should be researched to the extent necessary to determine the site's design value and potential association with Criteria A, B, or C. Information on ownership, historic use, period of potential importance, design, and other relevant information should be sought as appropriate.

When evaluating historic or rural landscapes, take into consideration both land use processes and the components of such resources. Refer to [Caltrans General Guidelines for Identifying and Evaluating Historic Landscapes](#), as well as to [National Register Bulletin 30](#).

National Register Criterion D

Historical archaeological sites will require some consideration of research importance to be eligible under Criterion D. In addition to historic-era habitation sites, resources such as battlefields, cemeteries, shipwrecks, and cultural landscapes have all yielded important information.

For this reason, an interdisciplinary team composed of historians, architectural historians, and historical archaeologists may be required to evaluate these types of cultural resources.

To meet NRHP Criterion D, information derived from a historical archaeological site's research value must be *significant*. It must be data that cannot be obtained from existing sources, including oral history, or from more intact examples of the resource type. The information must be able to *add* to our understanding of the historic context or theme it represents.

To be significant under Criterion D, an archaeological site must have the potential to yield *important* information, not just answer simple questions such as who lived where when. Addressing important questions involves more than just filling gaps in current historical knowledge. Development of a thoughtful research design requires considering how the archaeological information might amplify or enhance our current understandings of a particular subject. As such, the historical archaeologists preparing research designs or contexts must examine previous scholarship on the subjects and take into consideration the adequacy and likely accuracy of current historical knowledge. Keep in mind, scholarly historical studies usually are written by contemporary historians and, though they may be based in part on the same primary sources that historical archaeologists employ, often arrive at fresh interpretations and insights.

To improve the quality of its historical archaeological studies, Caltrans has developed a series of research designs for properties commonly encountered on highway projects. These documents are useful tools for streamlining the evaluation of common property types associated with a number of resources, including [agriculture](#), [mining](#), [townsites](#), and [work camps](#). Each document contains a historic context, property type discussion, research design, and methods section. Researchers should draw upon the identified research themes to determine specific issues and questions that may be relevant to the site under evaluation.

In a Society for Historical Archaeology plenary session at the 1987 annual meeting, Kathleen Deagan identified five broadly defined "avenues of inquiry" that reflect the major research directions pursued within the discipline of historical archaeology (Deagan 1988). The Keeper of the NRHP in [National Register Bulletin 36](#) has recognized those research domains as important. They consist of:

- 1) Historical supplementation.
- 2) The reconstruction of past life ways.

- 3) The study of cultural processes.
- 4) The refinement of archaeological methods.
- 5) Interpretation of the cognitive systems of past societies.

For historical archaeological sites eligible under Criterion D for their information potential, less attention is given to their overall condition than would be required under Criteria A, B, or C. There are always cultural and natural processes that alter the deposited materials and their spatial relationships. Under Criterion D, integrity is based upon the site's potential to yield specific data that address important research questions in the research design. Integrity, and its relevance to addressing research questions, will differ depending on the occupation history and land use at each site. To address important questions in history, integrity of location and materials is normally required. [National Register Bulletin 36](#) contains extensive guidance on applying the seven aspects of integrity to archaeological properties.

6.4.2 Properties Exempt from Evaluation

Under the Section 106 PA and the 5024 MOU for state-owned cultural resources, Caltrans, FHWA, and SHPO have identified certain classes of properties that do not require recordation or evaluation (see [Chapter 4](#) Section 4.4.1). Exempt archaeological properties, listed in [Section 106 PA/5024 MOU](#) Attachment 4, typically do not warrant any identification, recordation, or evaluation effort. Only Caltrans PQS (Co-Principal Investigator for historical and prehistoric archaeology and above) and consultants meeting the PQS criteria may exempt the properties.

Included in the list is the property type “isolated refuse dumps and scatters over 50 years old that lack specific associations” that deserves some special guidance. Application of Section 106 PA/5024 MOU Attachment 4 for exemption of this class of resource must be conducted with care. There might be research values (potential to yield *significant* information) under NRHP Criterion D that may not be readily apparent. In situations where the potential for historical association (or lack thereof) is not directly evident, contact a qualified Caltrans historical archaeologist to discuss the property. The Caltrans historical archaeologist will then offer guidance on appropriate level of research to determine whether the property meets the exemption criteria. If the research indicates some association, such as historical occupation of the parcel where the refuse scatter is located that corresponds to the date of the assemblage, the property is not exempt and will need to be evaluated. Where no association is present, the archaeological site will meet the requirements of Attachment 4. Archaeologists may record a historical archaeological site during the identification phase that later may be found to meet the requirements for exempt properties in Attachment 4. In this situation, edit the ASR or

HPSR to indicate an appropriately qualified Caltrans PQS or consultant determined the recorded property exempt from evaluation.

The key to successful implementation of Section 106 PA Attachment 4 is sound professional judgment. Questions concerning the applicability of Attachment 4 to specific historical archaeological resources should be referred to the CSO Section 106 Programmatic Agreement and Coordination Branch (Section 106 Branch) Chief.

Ruins of Buildings and Structures

According to [*National Register Bulletin 15*](#) Section IV, “If a building has lost any of its basic structural elements, it is usually considered a ‘ruin’ and is categorized as a site.” Likewise, this section of the Bulletin also states, “If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a ‘ruin’ and is categorized as a site.” The architectural historian, in consultation with the historical archaeologist, determines whether the building or structure is a “ruin,” as defined by *National Register Bulletin 15*. If, after consultation with the historical archaeologist, the architectural historian determines that the building or structure does not retain sufficient structural integrity to be classified as a building or structure and there is known historical information on the structure, the resource is considered a historical archaeological site and an interdisciplinary approach to evaluation is used. Also see [Chapter 4](#), Section 4.4.2.

Not all ruins of buildings and structures within a project APE require study. As stipulated in Section 106 PA/5024 MOU Attachment 4 the following are exempt from evaluation:

- 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.
- Building and structure ruins and foundations less than 50 years old.

However, they may not be exempt, if they are part of any larger historic or potentially historic property (see Section 106 PA Attachment 4).

When there may be associated archaeological components, appropriately qualified historical archaeologists who meet the PQS standards for that discipline record and, if applicable, evaluate ruins of buildings and structures. Historical archaeologists and historians with requisite coursework and training in building construction technique history, established by submitting documentation of that training to the Headquarters CSO, in consultation with architectural historians, also may evaluate under Criterion D when the information is contained within the

constructed remains of the building or structure. An interdisciplinary approach is used in this instance. Also see [Chapter 4](#), Section 4.4.2.

6.4.3 Evaluation without Excavation

Excavating historical archaeological sites is an expensive and time-consuming activity that sometimes may be avoided. Loss of integrity, a preponderance of informative surface archaeological deposits, the results of prior excavation work, or sufficient historical records and information regarding that type of site may all provide adequate grounds for a finding for or against eligibility without having to excavate. Even if some buried deposits are anticipated, the importance of some historical archaeological sites (particularly those that consist largely of surface deposits) often can be addressed without excavation. For example, a construction camp in Inyo County was determined eligible for inclusion in the NRHP under Criterion D based solely on the abundant and relatively intact surface deposits found there. Make the argument for or against eligibility of a historical archaeological site without test excavation in the HRER.

Historical archaeological resources that have clearly lost their integrity and lack historical importance or the ability to address important research topics should be determined as not eligible for inclusion in the NRHP. In such a situation, document the lack of integrity in the HRER. For instance, simply stating that an orchard was planted on top of the location of a former adobe is not sufficient. On the other hand, information from the landowner that heavy equipment churned the earth to a depth of five feet to prepare the ground for planting is the type of important detail needed to support the lack-of-integrity statement. This fact then would be considered in relationship to the expectation for archaeological deposits, based upon knowledge of similar site types and potential for effect (i.e., is there an expectation for deposits below five feet and what is the depth of construction impacts).

In some cases, evaluation may be unnecessary if the value of the site appears to be limited to its research potential, and an Extended Phase I (XPI) investigation reveals that the boundaries of the property are outside of the area directly impacted by project construction. See [Section 6.6](#) for a discussion of the justification for an XPI study, as well as [Exhibit 5.2](#).

Where evidence exists that demonstrates the site possesses integrity and archaeological data potential, such as through remote sensing (see [Exhibit 5.10](#)) or knowledge of similar site types and degree of disturbance, one may make an argument that a site is eligible based on its *potential* to yield information. The potential to yield information must be demonstrated in the HRER in a well-developed, rigorous research design that considers the site-specific context with comparisons to similar historical archaeological sites.

The argument for eligibility based on information potential with no test excavations should be used sparingly. Save it for situations where property access problems would delay completion of the environmental document. It might also be used when the project's effects to the site can be reasonably assessed and there is enough information on integrity to make a final effect determination for the site.

Evaluation of historical archaeological sites without excavation is documented in the HRER. Caltrans PQS at the Co-PI level and consultants who meet the same qualifications may perform the evaluations with peer review by a PI-level historical archaeologist.

6.5 Letter Reports for Cultural Resources That Are Not Eligible

In cases where the provisions of the Section 106 PA do not apply, such as on projects involving tribal lands or state funded projects, it is appropriate to document in a Letter Report historical archaeological sites that are not eligible for inclusion in the NRHP. See [Exhibit 6.1](#) for format of a letter report. These resources will be exempt properties as described in [Section 106 PA/5024 MOU Attachment 4](#) and discussed in [Chapter 4](#) and [Section 6.4.2](#), but appropriate historical research and field survey should be conducted to ensure the resource meets the requirements of Section 106 PA/5024 MOU Attachment 4.

A finding that a historical archaeological site is not eligible for inclusion in the NRHP, at this stage, may be a result of any one of the following factors:

- Demonstrated loss of site integrity.
- Absence of historical associations or important design value.
- Demonstrated lack of significant archaeological research potential.

While an archaeological survey may be able to record information in the field to document a loss of site integrity, the appropriately qualified historical archaeologist must evaluate the latter two qualities. If it is determined that a historical archaeological site meets at least two of these three factors, include the results of the evaluation and justification for its conclusions in a Letter Report.

Many historical archaeological resources are likely to fall into this category of ineligibility. However, be careful to avoid blanket assumptions as to lack of historical associations or significant archaeological research potential until adequate information regarding a resource's historic context and associations can be established. For instance, unassociated tailings piles, isolated refuse dumps, mine test pits, and rock walls are all *likely* to be determined not eligible for inclusion in the NRHP. However, some examples of those resource types, such as a rock

wall delineating the boundary of a Mexican rancho, may be potentially eligible because of their important historical associations with themes developed in a historic context. They also may be part of a larger historic property (i.e., a contributor to an eligible property).

6.5.1 Review, Approval and Distribution of Letter Report

6.5.1.1 Peer review of Letter Report

A Caltrans PQS certified at the Co-Principal Investigator level or higher must peer review the draft Letter Report. Caltrans PQS carefully review the document prior to submission to FHWA and SHPO to ensure timely consideration and approval by those agencies. Peer review ensures that the Letter Report:

- 1) Follows the format and content guidelines provided in [Exhibit 6.1](#)
- 2) Meets professional standards in field methods, site recording, and reporting
- 3) Fulfills the obligation of the identification and evaluation steps required by [36 CFR §800.4\(b\)](#) and (c).

Fifteen (15) working days are normally allowed for peer review. Also see [Section 6.16.1](#).

6.5.1.2 Approval and Distribution of Letter Report

Following peer review, and any necessary revisions, the report preparer signs the title page of the final Letter Report. Then, Caltrans PQS at the Co-Principal Investigator level or higher reviews for approval either the Caltrans staff- or consultant-prepared final Letter Report. Review ensures that the report is acceptable and that the maps depicting the Study Area and the area surveyed are accurate. If a Caltrans PQS has not prepared the report, the responsible PQS indicates review and *approval* by signing the title page of the report. The DEBC then reviews and formally approves the Letter Report by signing the title page.

Upon approval, attach the Letter Report to the HPSR or HRCR as a technical document demonstrating the property is not eligible for inclusion in the NRHP.

6.6 Test Excavations

Where possible, evaluate historical archaeological sites without excavation because of the cost and time commitments associated with all types of test excavation programs. Furthermore, excavations by their very nature destroy sites. [Chapter 5](#) discusses XPI and Phase II studies in detail and [Exhibits 5.2](#), [5.3](#), [5.4](#), and [5.5](#) provide the format and content of these

proposals and reports. This section focuses on the differences inherent when dealing with historical archaeological sites.

When the evaluation of a historical archaeological site cannot be completed based on historical research alone, however, test excavations need to be conducted to:

- Establish the boundaries of the resource relative to a project's direct impact area (XPI Studies or XPI).
- Evaluate the research potential of the property (Phase II Studies).

Test excavations usually are conducted when their results are essential to determining the site's ability to address important research topics. They may be equally important for understanding a project's effects to the site, specifically for determining locations of intact portions of the site relative to the Direct APE for the proposed project. Testing is not warranted for historical archaeological sites that:

- Lack integrity and/or clearly defined historical associations.
- Lack research potential (e.g., sites with little or no cultural deposits).
- Can be adequately evaluated using historical information and surface inspection.

XPI and Phase II studies follow similar procedures, differing primarily in their scope and objectives. [Chapter 5](#) and [Section 6.6.2](#) discuss the scope and objectives of each type of study. Because archaeological excavations usually require large commitments of time and public expense, both XPI and Phase II testing procedures must be justified in the proposal. See [Section 6.7](#) for a discussion of how to prepare proposals for these studies. Planning and conducting archaeological testing programs at historical archaeological sites follow many of the same procedures already considered in Chapter 5. Unique requirements for work at historical archaeological sites are discussed in separate sections covering pre-field preparation and fieldwork ([Section 6.8](#)), field safety ([Section 6.8.2](#)), laboratory analysis ([Section 6.9](#)), and reporting requirements ([Section 6.10](#)). See also [Exhibit 5.9](#) which contains the Excavations pre-field checklist, [Chapter 4](#) Section 4.6.3.4 regarding safety, and [Exhibits 5.3](#), and [5.5](#) that contain reporting formats.

6.6.1 Time Required to Conduct XPI Studies and Phase II Investigations

When excavation is required, allocate adequate time for testing programs. Assuming the work is a typical XPI study at one site, and adequate project mapping is available at the inception of that work, the average XPI study, including excavation and report completion, takes six months. Based on the same criteria, Phase II investigations normally require 12 months. Special circumstances such as limitations on rights of entry or special restrictions associated with

endangered species or seasonality may significantly lengthen these time frames. [Exhibit 2.3](#) contains estimates of the time and effort required to complete such excavations.

6.6.2 Scope and Objectives

The objectives of a test excavation program always need to be stated clearly and justified, with specific thresholds defined to establish when the work can be considered to have met those goals. An XPI study may be expanded into a Phase II testing program in cases where the proposal has been specifically designed to accommodate that eventuality. It is often helpful to prepare a combined XPI/Phase II proposal in cases where time is of the essence and there is a reasonable expectation for that outcome.

6.6.2.1 XPI Goals

XPI studies of historical archaeological sites are small-scale archaeological investigations with narrowly defined goals. Conduct these investigations solely to determine the presence or absence of cultural deposits and whether the deposits extend into the project's Direct APE.

Do not conduct XPI studies to evaluate sites. If cultural deposits are encountered, full evaluation of the resource normally will require Phase II excavations.

An XPI study typically is undertaken to establish the presence or absence of intact historical archaeological deposits within the project's Direct APE. This type of study occurs when deposits are expected but cannot be confirmed or precisely located using historical research and surface inspection alone.

While XPI studies are not carried out in order to determine whether the site is *eligible* for inclusion in the NRHP, data (or the lack of it) recovered from an XPI study may sometimes be used to determine that the portion of a site within the Direct APE *would not contribute* to the eligibility of the site, should it ever be found to be eligible for the NRHP. One should conduct a Phase II investigation when a historical archaeological site is known or likely to contain subsurface deposits within the project's Direct APE, and those deposits have the potential to address important research topics. Normally Phase II studies are also needed to complete the evaluation of a site when the results of an XPI study are positive.

The premise for a XPI study is that there is a fairly low, but nonetheless possible, chance that potentially important archaeological deposits extend into the project's Direct APE. The typical XPI study will establish whether there are potentially significant archaeological deposits in the project's Direct APE. Lack of potential for significance may be predicated on the absence of cultural deposits or a substantial loss of integrity. In the former case, re-draw site

limits; in the latter case, or for management purposes, establish the area subject to the XPI test as a noncontributing element of the larger site. The second scenario is an eligibility determination that Caltrans will submit to SHPO for their concurrence.

6.6.2.2 Phase II Goals

Given the expense and length of time required for full Phase II archaeological excavation programs, such studies are used to evaluate historical archaeological sites only when:

- There is a clear potential that the undertaking will affect the site, and
- The site's research value cannot be adequately assessed using information from its surface manifestations.

The decision to conduct a historical archaeological test excavation program is based on the anticipated presence of intact, information-bearing historic-era archaeological deposits in the project's Direct APE.

The research potential of a historical archaeological site is determined by assessing the:

- Identifiable historical associations.
- Diversity, abundance, and types of cultural materials expected to be present.
- Anticipated depositional integrity of the archaeological site.

The absence of identifiable associations and/or research potential is typically documented without excavation and is based on historical research and surface inspection. Where a site is likely to contain important data, but the presence of intact deposits in the Direct APE is uncertain, an XPI study may be more appropriate. Some sites consisting largely of surface deposits that may be potentially eligible for their research value can be effectively evaluated without excavation, as described in [Section 6.4.2](#) above.

Phase II excavations are appropriate when there is likelihood that reasonably intact subsurface archaeological deposits clearly can be associated with a historically documented occupation or activity. Sites that lack clear historical associations are not likely to warrant excavation because there is little prospect that they can address any important questions in history. In a similar vein, sites that may possess a limited range of cultural materials, or materials that cannot be associated with an identifiable deposit or feature, are also unlikely to address important research topics. Use surface evidence and the types of historical activities known to have taken place at a site to assess this potential.

Conduct a Phase II archaeological study to:

- Evaluate whether the resource is eligible for inclusion in the NRHP.
- Acquire sufficient information about the site to assess the project effects when plans are sufficiently developed.

Normally, the Phase II study should address the entire resource; however excavations should focus on areas known to be within the Direct APE (see [Chapter 5](#) Section 5.6 for further guidance).

6.7 Excavation Proposals

When an XPI or Phase II study is justified, the PI historical archaeologist must prepare, or directly supervise the preparation of, an excavation proposal. Likewise, the historical archaeologist is responsible for implementing the work. When XPI or Phase II studies involve sites occupied by Native Americans during the historic era, either a historical archaeologist or an appropriately trained prehistoric archaeologist may prepare the proposal.

6.7.1 Excavation Proposal Contents

The excavation proposal must include a:

- Concise historical context.
- Realistic and site-specific research design.
- Work plan.

The level of detail required for a given proposal will depend on the:

- Type of work that is proposed (XPI or Phase II).
- Complexity of the resource.
- Scope of anticipated project impacts to that resource.

In general, XPI study proposals should be much simpler than those prepared to justify Phase II studies. [Exhibits 5.2](#) and [5.4](#) contain supplementary guidance on scope and contents of proposals for XPI and Phase II studies. All proposals should include specific provisions for obtaining necessary entry rights and permits.

Curation Plans

Work plans in the proposals should include provisions for curating recovered specimens, as well as field notes, photographs, and reports. Give serious consideration at the proposal stage as to what materials will be subject to retention, discarded, or not collected during field exca-

vation. It may be entirely appropriate to discard many materials with low research value (e.g., nails, non-diagnostic fragments of glass, etc.) once they have been thoroughly catalogued for purposes of data analysis. In such cases, the proposal should clearly explicate discard policies that will be employed during fieldwork. It is generally inappropriate to curate collections generated from XPI studies *unless* they produce positive results that will lead to a Phase II study.

Guidelines for Curation are found in [Curation of Federally-Owned and Administered Archaeological Collections](#) (36 CFR Part 79, originally published in the Federal Register, Vol. 55, No. 177, September 12, 1990). California has also adopted state curation guidelines that should be consulted when the plan is being prepared. District management, usually the DEBC, reviews and approves the curation plan.

6.7.2 Extended Phase I Proposals

When an XPI study is justified at a historical archaeological site, the proposal follows the same format ([Exhibit 5.2](#)) as would be prepared for a prehistoric archaeological site. It states why the XPI study is needed, the field methods to be used, and the basis for determining when the study goals have been met and fieldwork can cease. Since an XPI investigation should be limited in scope, the proposal should be brief.

XPI Proposals should include the:

- Reasons the study is needed.
- Goals of the investigation.
- Field and laboratory methods to be used.
- Thresholds used to establish when the study has achieved its objectives.
- Availability of appropriately qualified personnel, whenever possible.
- Schedule for completing the work.

The introduction to the proposal should indicate the study's goals and why an XPI, rather than a Phase II, study is appropriate. This document should supply a historic context, site description, and a brief discussion of the resource's potential importance in relation to current research topics.

Define the methods to be used in the scope of work. Flexibility is most important, and a combination of mechanical excavation, surface scrapes, auger holes, shovel test pits, rapid recovery units, and control units may be required. Since minimal recovery of archaeological materials is anticipated, proposing only limited laboratory work is appropriate. Include

curation plans in the event that potentially significant deposits are encountered and a follow-up Phase II study is needed. State explicitly whether materials will be curated.

Protracted discussion of theoretical research questions in the XPI is inappropriate and not necessary.

6.7.3 Phase II Proposals

Phase II proposals require more complete development of a research context against which any remains that are encountered will be measured. Because such work is conducted with the expectation that potentially significant deposits and features may be found, develop research questions to cover all expected areas of potential importance. Define the explicit data requirements for each topic.

Excavation efforts should be focused on that portion of the site within the Direct APE; however, particular research objectives may direct excavations to specific areas, components, or features within the site. Other features may not warrant any effort beyond noting their presence.

A PI-level historical archaeologist must prepare, or directly supervise the preparation of, the Phase II proposal, in consultation with historians or architectural historians or other specialists if a project team has been formed. In cases where excavation is planned at a historical archaeological site associated exclusively with historic Native American use, either an appropriately qualified prehistoric or historical archaeologist can prepare the Phase II Proposal (see [Exhibit 5.4](#) for guidance).

The Phase II Proposal should include:

- Need for the Phase II study.
- Goals of the investigation.
- Field and laboratory methods to be used.
- Historical research methods.
- Research Design that explains the data needs to address important research issues.
- Thresholds used to establish when the study has achieved its objectives.
- Availability of appropriately qualified personnel, whenever possible.
- Schedule for completing the work.
- A curation plan.

6.7.4 Excavation Proposal Approvals And Distribution

XPI and Phase II Proposals that describe the excavations to be performed at historical archaeological sites should follow the general format and content guidelines found in [Exhibits 5.2](#) and [5.4](#). Complete a revised archaeological site record and append it to the report if additional information is recovered beyond that recorded in the ASR. For example, additional information may include redefined limits or changed nature of the archaeological site.

6.7.4.1 Peer Review of Excavation Proposals

Caltrans PQS certified at the PI level for historical archaeology must peer review the draft XPI or Phase II proposal to ensure it meets professional standards (see Section 6.16 for further information on peer reviews). Submit requests for peer review to EBCs who supervise Caltrans PQS PI-level historical archaeologists either in district environmental branches or in the Headquarters CSO. The peer reviewer normally has up to fifteen (15) working days to complete the review. The originating DEBCs may allow longer review periods at their discretion.

6.7.4.2 Approval and Distribution of Excavation Proposals

Following peer review, and any necessary revisions, the report preparer signs the title page of the final XPI or Phase II Proposal. If a Caltrans PQS has not prepared the proposal, the responsible PQS indicates review and *approval* by signing the title page. The DEBC then reviews and formally approves the XPI or Phase II Proposal by signing the title page. Upon approval, the appropriately qualified historical archaeologist may implement the proposal.

6.8 Pre-Field Preparation and Fieldwork

Pre-field preparation includes the activities outlined in the excavation checklist in [Exhibit 5.9](#), such as securing:

- Permits.
- Access rights.
- Underground service alert.
- Detailed project mapping.
- Appropriately qualified crew.
- Equipment.
- Facilities.
- Supplies.
- Transportation.

These requirements largely duplicate those discussed in [Chapter 5](#). However, some additional considerations bear mention here with regard to excavations at historical archaeological sites.

Testing historical archaeological sites requires a great deal of methodological flexibility to yield maximum information. Design the proposals to allow considerable freedom in choice of field methods, especially with regard to excavation unit size and shape. Fieldwork should then follow the approved proposal.

6.8.1 Field Methods

Field methods for testing historical archaeological sites often differ from those used to sample prehistoric archaeological sites. The types of sampling strategies commonly used at prehistoric archaeological sites (particularly random sampling) are not very useful when investigating historical archaeological sites, since sample units may more appropriately be the identified features themselves. It may be necessary to clear vegetation from broad areas of the site, or features within the site, in order to locate features or artifact concentrations before actual excavation.

Some historical archaeological sites require exploratory backhoe trenches or grading to provide information on site stratigraphy and feature location. Trenching may be an essential first step for investigating sites with long occupations where there may be buried components, flood deposits, or other vertically stratified elements. Others (such as single component sites) may require shallow block exposures or broad excavations that have the potential to reveal a maximum number of subsurface and surface features.

Subsurface features may be located by means of trenches, shovel tests, backhoe scrapes, or probes with metal rods in search of changes in soil compaction, color, or constituents. They may also be discerned by using metal detectors, remote sensing, and other geophysical techniques, although such procedures require the use of experienced analysts. The topography of the site may also provide clues to the presence of subsurface features. Once the important features of a site are located, controlled test units may be appropriate to maximize the information yield with a minimum amount of disturbance.

6.8.1.1 Mapping

Surface remains should be thoroughly examined when the site is recorded and an accurate sketch map prepared for the site record. For XPI and Phase II excavations, the site must be mapped using standard archaeological techniques, usually with a transit and stadia rod. Sub-meter accuracy Global Positioning System (GPS) devices may be used as an alternative map-

ping method. The surface features of the site and all excavation units should be plotted and tied to a permanent datum established outside the transportation project's Direct APE.

6.8.1.2 Principal Investigator On Site

A PI-level historical archaeologist who has the authority to make decisions should be on site during the work. Alternatively, the PI may supervise a Co-PI historical archaeologist or a prehistoric archaeological Lead Archaeological Surveyor. In cases where the historical archaeological site is associated exclusively with Native American use, a PI-level prehistoric archaeologist may direct the work. [Section 106 PA/5024 MOU](#) Attachment 1 describes the qualification requirements for historical and prehistoric archaeologists and [Exhibit 1.6](#) provides in table format the PQS levels required for archaeological activities.

If there is no Native American component to the historical archaeological site, coordination with local Native Americans, and the presence of a Native American monitor is not sought. A Native American monitor is required when there are sites with multiple components that include Native American elements. See [Chapter 3](#) for guidance.

6.8.2 Field Safety

Health and safety issues that should be considered carefully prior to every project are discussed in [Chapter 4](#), Section 4.6.3. Chapter 2 in the [Caltrans Survey Manual](#) describes standard field safety precautions such as traffic management, first aid, and other routine practices.

A tailgate safety meeting tailored to the specific needs of each excavation project must be conducted at the inception of and at intervals during every field excavation project.

6.8.2.1 Special Hazards

In addition to the standard safety precautions, such as shoring and entry into confined spaces common to excavations at all types of sites, work at historical archaeological sites may need to account for a variety of special hazards. Those hazards include both pathogenic and chemical contamination found at some historical archaeological sites. For example, privy pits may contain pathogenic organisms. Industrial sites often contain areas with hazardous chemicals, such as the milling area at a mine, or obscured dangers, such as mine shafts. With the exception of mine shafts, hazards can often be controlled or avoided by appropriate hygienic practices and protective equipment such as rubber gloves and masks. For example, washing hands before eating should be standard safety practice whenever work occurs in potentially contaminated soils.

6.8.2.2 Health and Safety Plan

If there is a reasonable chance that hazardous wastes may be encountered during an archaeological excavation, a Certified Industrial Hygienist (CIH) should prepare a health and safety plan prior to initiation of the excavation. Alternatively, an archaeologist with 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training may prepare the document. Regardless of who prepares the document (CIH or archaeologist with HAZWOPER training), the site safety officer should be trained appropriately and given authority to implement provisions of the safety plan. To assess potential risks, consider pre-testing by a hazardous waste consultant. If appropriate, District and Headquarters Hazardous Materials Coordinators can provide assistance in procuring the services of CIHs and determining the presence of hazardous wastes.

Work at heavily contaminated sites is rarely justified and generally should be avoided. This is because the cost of testing contaminated sites is often excessively high, involving not only expensive field safety procedures, but also the cost of decontaminating recovered materials following their retrieval.

6.9 Laboratory Analysis

Laboratory work normally entails:

- Washing or preparing samples (if necessary).
- Cataloging.
- Identifying materials, artifact types, and date ranges attributable to those items.
- Quantifying artifacts (total pieces and minimum number of individual items).
- Where appropriate, suitably packaging and conserving materials that will be retained for permanent curation.

In keeping with the procedures specified in the excavation proposal, materials with little research value should be cataloged and discarded. This minimal processing is usually all that is appropriate for XPI studies.

Phase II laboratory work normally goes beyond the minimal processing described above to include some specialized analyses. Those special analyses should be undertaken only to the extent needed to determine whether the data contained in the site have the potential to address the research questions posed in the Phase II proposal. If the expertise does not exist in house, it may be necessary to retain consultants with specialized expertise in faunal analysis, industrial processes, and other topics to achieve the research design's goals. Materials should be cataloged according to standard functional categories (with modifications as appropriate for

the site) in order to facilitate the site comparisons often necessary for eligibility determinations as well as to guarantee the future comparative value of the work.

6.10 The Historical Resources Evaluation Report

Caltrans uses the Historical Resources Evaluation Report (HRER) to document evaluations of historical archaeological resources. The HRER also is used to evaluate built-environment resources as discussed in [Chapter 7](#). Separate reports may be prepared for the same project depending on resources present and time frames involved. When excavation is required to evaluate a site, an XPI or Phase II proposal *precedes* the HRER. The nature of the values a resource may possess will determine the kinds of expertise needed to evaluate it. Coordination with Caltrans architectural historians or ethnographers, for example, is appropriate and necessary for resources with those values. Assess the historical archaeological resource for all potential areas of significance. The format and content of an HRER will depend on the types of resources that are being evaluated and the degree of archaeological excavation. See [Exhibit 6.2](#).

6.10.1 Determinations of Eligibility

The HRER contains a concise discussion of the reasons each historical archaeological site is or is not significant. Information required for historical archaeological sites includes:

- Site type.
- Historical overview.
- Site-specific historical information.
- Site description, including size, depth, structure/organization, features, the nature of the cultural deposits, and a discussion of site boundaries and the methods by which they were defined.
- Integrity of the site as well as its immediate environment.
- Summaries of known archaeological data within the site.

And for eligible sites:

- Applicable NRHP criteria and areas of significance (if eligible under NRHP Criterion D, emphasize how the data contained in the site may address important research issues).
- Period and level of significance.
- Contributing and non-contributing elements.
- NRHP boundaries.

The statement of significance should normally address the entire site. It should also consider appropriate historical themes such as commerce and industry, transportation, or exploration and settlement, to name but a few. [National Register Bulletin 16A](#) and the Office of Historic Preservation's "[Instructions for Recording Historical Resources](#)" contain a list of "areas of significance" from which historical themes can be derived. Sites likely to have research importance under NRHP Criterion D will require more refined discussions of important research topics. Provide a summary of the potential research contributions to support eligibility under this criterion. Consider the seven aspects of integrity, their relative importance, and their ability to convey a resource's significance in the eligibility discussion. Because Caltrans simultaneously evaluates these resources to comply with CEQA, include a statement that Caltrans also has determined that the site is a historical resource for purposes of CEQA.

6.10.2 Historical Resources Evaluation Reports Without Excavation

The HRER may also make the case for eligibility of a historical archaeological site without test excavation. In this situation, the HRER presents enough information to support a determination of potential significance, or lack thereof. HRERs that document eligibility without excavation are most commonly used for sites that either have lost integrity or are important for reasons other than their research significance. As stated above in [Section 6.4.3](#), where evidence exists that demonstrates the site possesses integrity and archaeological data potential, an argument may be made that a site is eligible for inclusion in the NRHP based on its *potential* to yield information.

The amount of detail required in an HRER will vary considerably. For example, a lengthy discussion of nineteenth-century shipbuilding and subsequent uses of the site was required to establish that a San Francisco shipyard had lost integrity. In a different case, research documented that the meager remains of a domestic occupation site were associated with a shopkeeper's 1930s house. Not only were the remains disturbed, but also their historic associations and context indicated that the potential for the site to yield important information was lacking. The document evaluating that historical archaeological resource was only a few pages long.

The finding that a historical archaeological site has few or no historical associations or archaeological significance must be documented adequately enough to support the federal agency's (Caltrans, on behalf of FHWA under the Section 106 PA, or another federal agency) determination that the site is not eligible for inclusion in the NRHP. For Caltrans (or any other lead agency under state law), this is a determination that the site is not a historical resource for the purposes of CEQA. The level of detail should be adjusted to fit the circumstances. Information included in the HRER and supporting documentation should be thorough enough to

establish adequately the historical context within which the resource is evaluated, including site-specific information and the reasons why the site is not eligible.

6.10.3 Jointly Prepared HRERs

6.10.3.1 Resources with Built and Archaeological Components

When buildings, structures, or objects are components of a cultural resource that contains archaeological deposits and/or features, the evaluation of the built and archaeological elements is combined in a jointly prepared HRER. In such cases, a team composed of architectural historians and historical archaeologists will collaborate and share responsibility for the evaluation. A team leader shall be assigned to coordinate the research effort and report preparation.

When the cultural resource contains predominantly historical archaeological components, the historical archaeologist normally will be the team leader. When the resource appears to contain predominantly historic-era built resources such as buildings, structures, objects, districts, or non-archaeological sites, the architectural historian normally is the team leader.

In both situations, the architectural historian will have primary responsibility for evaluating a resource's built elements for significance related to criteria A, B, and C, while the historical archaeologist will have primary responsibility for findings about the archaeological elements and values related to Criterion D. The outcome of the collaborative effort either will establish by consensus that a resource is not eligible for inclusion in the NRHP, or define one or more areas of significance to support a NRHP eligibility determination.

For combined work, the citation and reference style shall be determined by the principal author and the preponderance of resources; e.g., if resources are primarily historical archaeological sites and, therefore, the archaeologist is the principal author, the historian's portion of a combined document should conform to the scientific style of citation. However, if historical archaeologists and historians or architectural historians separately prepare two HRERs that then are merged, the HRERs do not need to conform to the same citation and reference style.

See [Chapter 4](#), Section 4.8.2 for more information about combined documentation, as well as [Chapter 7](#), Section 7.11.2.

6.10.3.2 Resources with Prehistoric and Historical Archaeological Components

When archaeological properties contain both prehistoric and historic-era components, the site may be evaluated in a jointly prepared Archaeological Evaluation Report (AER). In such cases, a team composed of prehistoric and historical archaeologists will collaborate and share responsibility for the evaluation. Historians and ethnographers may be involved as circumstances warrant. A team leader shall be assigned to coordinate the research effort and report preparation. When the cultural resource contains predominantly historical archaeological components, the historical archaeologist normally will be the team leader. When the resource appears to contain predominantly prehistoric components, the prehistoric archaeologist normally is the team leader. The outcome of the collaborative effort will either establish by consensus that a resource is not eligible for inclusion in the NRHP, or define one or more areas of significance to support a NRHP eligibility determination.

6.10.4 Historical Resources Evaluation Report Review and Distribution

6.10.4.1 Peer Review of HRER

A Caltrans PQS PI-level historical archaeologist must peer review all draft HRERs that involve historical archaeological sites, as well as XPI or Phase II Proposals and Data Recovery Plans. Caltrans PQS for architectural history must peer review appropriate sections of combined HRERs that involve built environment resources, as described in [Chapter 7](#). Ideally, when HRERs address both historical archaeological and built resources, a Caltrans PQS who is outside the discipline of the primary author who prepared the HRER should conduct a peer review to ensure the HRER adequately considers the full range of potential historical associations and values that may be associated with the subject resources. See [Exhibit 2.13](#) for more guidance on peer reviews.

Peer reviewers ensure that the HRER meets the needs and expectations of outside review agencies, such as SHPO. The HRER must:

- Adequately discuss the scope of evaluation efforts.
- Present substantive and concise information regarding the evaluation efforts.
- Contain a definitive statement of whether the evaluated cultural resource meets NRHP criteria or is a historical resource for the purposes of CEQA (see [Exhibit 2.14](#) for guidance on summary paragraphs).
- Identify specific areas of significance, and if under Criterion D, the information the site may contribute.
- Include appropriate graphics, such as mapping, excavation drawings, and photographs.

Districts without appropriate Caltrans PQS may request peer review by appropriately qualified staff at CSO or in other districts. Make the request to the CSO Chief or appropriate DEBC. The Caltrans PQS typically have fifteen (15) working days to complete the peer review. The originating DEBC may allow longer review periods at his or her discretion. If the peer reviewer does not provide comments to the author within this time frame, the HRER is considered adequate and the DEBC may approve it, as described below.

6.10.4.2 Approval and Distribution of HRER

Following peer review, and any necessary revisions, the report preparer(s) takes into account timely comments on the draft, prepares the final HRER and signs the title page of the final HRER. Then, Caltrans PQS reviews for approval either the Caltrans staff- or consultant-prepared final HRER. Review ensures that the report is acceptable and that the maps depicting the Study Area and the area surveyed are accurate. If a Caltrans PQS has not prepared the report, the responsible PQS indicates review and *approval* by signing the title page of the report. The DEBC then reviews and formally approves the HRER by signing the title page. The accompanying transmittal memo should summarize the major findings in the HRER. If the memo transmitting the HRER to the DEBC for approval made recommendations concerning the resource, this memo also should be sent to the CSO Section 106 Branch Chief (for federal undertakings).

The requesting DEBC approves all HRERs, which then become part of the summary document, the HPSR. See [Exhibit 6.2](#) for the appropriate HRER format.

When Caltrans PQS from Headquarters CSO prepare the HRER, the final report is sent to the district, and district staff prepare copies. The number of copies should include copies for transmittal to FHWA and SHPO, for district and CSO files, plus any additional copies the district requires. The historical archaeologists and/or architectural historians who prepared the HRERs may submit electronic files to the requesting district to facilitate report production and reduce mailing times.

When the district prepares HRERs, the HRC should ensure that the appropriate number of copies are made and attached to distribution copies of the HPSR or HRCR, including a copy to CSO, as described in [Exhibit 2.11](#). Send a final copy to the appropriate Information Center only *after* SHPO has concurred on eligibility determinations. If state-owned resources are included in the HRER, send a copy of the transmittal memo summarizing the state-owned resources, including name, location and NRHP eligibility status, to the Chief, Built Environment Preservation Services Branch for PRC 5024 purposes.

6.11 Environmentally Sensitive Areas

When a resource within the APE can be protected from adverse effects, the resource and a surrounding buffer is designated an Environmentally Sensitive Area (ESA) and preserved in place. Protecting historical archaeological sites through the use of ESAs is similar to protection of prehistoric archaeological sites using ESAs. Consult [Chapter 5](#), Section 5.7, [Exhibit 2.7](#) and [Section 106 PA/5024 MOU](#) Attachment 5 for further guidance.

6.12 Data Recovery Plans, and Treatment Plans

As a result of concerns expressed by Caltrans Headquarters, Regional and District management, the California Transportation Commission, FHWA and regulatory agencies over the appropriateness of certain mitigation expenditures, Caltrans established a policy for internal independent peer review of all environmental mitigation commitments expected to exceed \$500,000 per project. This review is intended to confirm that the mitigation is cost effective and that it is commensurate to the scope of the undertaking and to the type and significance of the historic properties.

Data Recovery Plans, Treatment Plans, excavations and other proposed mitigation measures that identify costs of \$500,000 and above *for the undertaking as a whole* must be reviewed by the CSO Chief, under delegation by the Chief, Division of Environmental Analysis, per [memo of January 28, 2005](#).

The CSO Chief will complete the review within fifteen (15) working days from receipt of the mitigation documentation. This review is intended to provide independent analysis to ensure that the mitigation is cost effective and commensurate to the scope of the undertaking, the type and significance of the historic properties, and that the Data Recovery Plans are consistent with the requirements of [Section 106 PA/5024 MOU](#) Attachment 6. The District Environmental Branch Chief will take the CSO Chief's comments into consideration *prior* to approving mitigation costs of \$500,000 and above.

A variety of different treatment procedures may be appropriate when a significant historical archaeological site may be adversely affected by a project. Caltrans develops appropriate treatment measures in consultation with SHPO (see [Chapter 2](#) for guidance on SHPO consultation procedures and legal documents). The scope of possible mitigation measures will depend on the reasons why a historic property meets NRHP criteria and the nature of the project's effects. Caltrans typically uses data recovery programs to recover the information values of sites significant under NRHP Criterion D. Other kinds of research programs and

public interpretation may be needed to offset the loss or impairment of historical archaeological sites that were determined eligible for the NRHP under other criteria.

When data recovery is stipulated in a Memorandum of Agreement (MOA), Caltrans develops a Data Recovery Plan (DRP) in accordance with [Section 106 PA/5024 MOU](#) Attachment 6 to describe in detail how the important information from a site will be recovered, analyzed, and disseminated to both professional and public audiences. The Advisory Council on Historic Preservation has published [Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites](#) (*Federal Register*, May 18, 1999, 64(95): 27085-27087) that should be consulted when preparing such plans.

[Chapter 5](#) provides general guidance on preparing DRPs, as do [Exhibits 5.6](#) and [5.8](#), while specific advice is offered in this section for DRPs involving historical archaeological sites.

In addition to these foreseeable treatment approaches, it may sometimes be prudent and necessary to prepare Treatment Plans. Treatment Plans would be appropriate when time is of the essence or access to historical archaeological sites cannot be reasonably obtained until late in the project development process. Caltrans has successfully used Treatment Plans on several large urban projects in order to plan for the discovery of important historical archaeological sites buried under urbanized areas. Treatment Plans are discussed in [Section 6.12.2](#).

6.12.1 Data Recovery at historical archaeological sites

Data Recovery Plans (DRPs) for historical archaeological sites should focus on the retrieval of the archaeological values that make the site significant and will otherwise be lost. Those values must be expressed as, or relate to, important research questions in historical or cultural topics. The DRP is appended to a project MOA to complete the Section 106 process. The DRP must conform to Section 106 PA/5024 MOU Attachment 6, and it should be based on information derived from historical research and from any previous test excavation. In addition, [National Register Bulletin 36](#) provides useful information for preparing DRPs for historical archaeological sites. [Exhibit 5.6](#) contains the format and contents for a DRP.

Data recovery typically focuses on the area that will receive direct impacts. However, some work outside of the direct impact area may sometimes be required to address particular research values. For example, in order to address questions about a specialized community's organizational principles and practices, it may be necessary to gather information on features outside of the direct impact area. But, the emphasis of the work must be on the site's research values that will be directly affected by the project.

Planning, pre-field preparations, excavation procedures, laboratory work, and analyses for a data recovery program differ from those employed for a test excavation mainly in their scope. The goal of a data recovery program is to recover the important information threatened by the project and thoroughly analyze and interpret that material for the benefit of public and professional audiences.

For some kinds of historical archaeological resources, detailed recordation may be the appropriate approach for capturing the site's threatened information. Documentation in forms such as photography, scaled drawings, maps, and descriptive text can be used to preserve important information associated with the ruins of some buildings or structures, ditch systems, roadbeds and trails, rock walls, and other features. For those situations, the Finding of Effect document or Section 106 consultation letter can succinctly outline the proposed data recovery methods.

A PI-level historical archaeologist must prepare the DRP for a historical archaeological site. However, in cases involving a historic Native American activity area, an appropriately qualified prehistoric archaeologist may prepare the DRP. As necessary, consult with a qualified architectural historian and other experts during the development of DRPs. For historical archaeological sites that are significant under criteria A, B, or C for reasons other than research potential, the DRP must be coordinated with other types of mitigation or treatment measures. Caltrans PQS at the PI-level for historical archaeology must peer review the DRP. [Chapter 5](#), Section 5.8.3 contains more guidance on peer review procedures and distribution of DRPs.

If the work will be conducted by a consultant, a Caltrans PQS at the PI or Co-PI level for historical archaeology reviews DRPs involving investigation of historical archaeological sites and provides advice to members of the contractor selection committee. Caltrans PQS at the PI or Co-PI level for historical archaeology should monitor historical archaeological excavations conducted by consultants who meet the appropriate qualifications outlined in [Section 106 PA/5024 MOU](#) Attachment 1.

6.12.2 Treatment Plans

Treatment Plans essentially compress identification, evaluation, and treatment into a single process. While this approach results in significant efficiencies, it can be justified only in situations where the normal process cannot be followed.

Caltrans should prepare Treatment Plans in situations where it is foreseeable and likely those historical archaeological sites that are potentially eligible for inclusion in the NRHP will be encountered, but there are overriding practical reasons why those sites cannot be tested prior to construction. For example, a Treatment Plan may be appropriate in an older neighborhood

covered by modern urban development because access to buried deposits cannot be reasonably obtained before built properties have been acquired and razed in preparation for highway construction. Treatment Plans in these situations serve as detailed plans for how discoveries will be managed. As such, they provide the basis for a formal agreement, such as an MOA or a project-specific Programmatic Agreement.

Caltrans should consult with FHWA and the SHPO prior to initiating the Treatment Plan approach. Such consultation is particularly important because the preparation of a Treatment Plan requires a substantial investment of effort in planning and background research to prepare for discoveries and associated contingencies.

Treatment Plans minimally should contain the:

- Detailed historic context.
- Detailed research design that identifies the specific types of important archaeological deposits and features likely to be encountered.
- Methods that will be used to locate them.
- Specific evaluation criteria and procedures.
- Detailed plans for recovering, analyzing, and disseminating their important data.

When preparing Treatment Plans, it is crucial to develop explicit expectations and evaluation thresholds that can be used to determine which deposits and features are eligible and thus merit prescribed treatment measures.

Treatment Plans have much in common with DRPs because they are prepared only in cases where it is anticipated that data recovery will be required. *The major difference between the two documents is the level of information available to guide the planned data recovery.*

[Exhibit 5.6](#) contains suggestions regarding the format and content for DRPs that essentially are the same for Treatment Plans. The standard review policies for DRPs also apply to Treatment Plans.

6.13 Coordinating Consultant Studies

Historical archaeological studies at times are conducted for Caltrans by academic institutions, other agencies, or contracted private consultants. These studies should involve a Caltrans PQS PI-level historical archaeologist to ensure scopes of work, budgets, and deliverables are adequate considering the type and potential significance of the historic property as well as commensurate to the scope of the undertaking. In most districts, the historical archaeologist

would assist the contract task order manager. If CSO is participating in the administration of the historical archaeological study or providing peer review of reports, ideally CSO personnel should participate in the fieldwork so that they have a better understanding of the nature of the resource involved.

6.14 Construction Monitoring and Post-Review Discoveries

Despite good faith efforts to identify historical archaeological properties, significant historical archaeological resources still may be discovered during construction. Consult [Chapter 5](#) Section 5.10, and [Exhibit 5.12](#). In addition, [Exhibit 5.13](#) describes the procedure to use when reporting damage to cultural resources during construction.

6.15 Historical Archaeological Study Permits

Permits may be required before conducting historical archaeological studies on public or private lands. The permitting process is the same process used for prehistoric archaeological studies. Consult [Chapter 5](#) Section 5.11 for guidance.

6.16 Peer Review and Approval of Historical Archaeological Documents

Prior to the distribution of the historical archaeological studies, reports and documents, there need to be *three* reviews:

- 1) District or CSO PQS, who is someone other than the author(s) of the documents, must peer review the Caltrans staff- and consultant-prepared draft documents.
- 2) District PQS must review and *approve* the final document, under the terms of the Section 106 PA Stipulation XVI. For Caltrans-prepared documents, if the Caltrans PQS is certified at the appropriate PQS level, his or her signature on the final document as document preparer also signifies review for DEBC *approval*.
- 3) DEBC must review and approve the final document.

6.16.1 Peer Review

Peer reviews are advisory and are considered to be part of the report preparation process. Peer reviewers may be identified in the acknowledgement section of the HRER and other archaeological documents or in a table of personnel working on the environmental studies. Peer review is separate from PQS approval of completed documents prior to submittal, which is required under the Section 106 PA. See Section 6.16.2 below.

In accordance with Caltrans Quality Assurance and Quality Control policy and the Section 106 PA Stipulation XVI, Caltrans PQS certified in the relevant discipline must peer review:

- Letter Reports
- Archaeological Study Reports
- Extended Phase I Proposals
- Extended Phase I Reports
- Archaeological Evaluation Proposals (formerly called Phase II proposals)
- Archaeological Evaluation Reports (formerly called Phase II reports)
- Data Recovery Plans
- Phase III Proposals
- Phase III Reports
- Historical Resources Evaluation Reports

Draft versions of curation agreements, monitoring plans, post review discovery plans and construction impact reports also may require peer review. Either district or CSO PQS may conduct the peer review. If a DEBC requests peer review by another district or CSO PQS, the DEBC submits the request to the appropriate DEBC or to the appropriate CSO Branch Chief. Such reviews, whether in the district or in CSO, will be completed within fifteen (15) working days of receipt of the request. However, longer review periods may be allowed at the discretion of the DEBC. [Chapter 2](#) Section 2.5.5 discusses Caltrans internal review guidelines and [Exhibit 2.13](#) contains more detailed peer review guidance.

Likewise, CSO PQS certified at the relevant level and discipline peer review the CSO-prepared draft archaeological documents and HRERs. Upon approval, the CSO Branch Chief or CSO Office Chief transmits the CSO-prepared documents to the requesting DEBC. Upon receipt, the DEBC has ten (10) working days to comment on the draft document, after which it is assumed to have met with the DEBC's approval.

The process for resolving disagreements and differences of opinion regarding Caltrans or consultant-prepared findings is outlined in [Chapter 2](#) Section 2.11.

6.16.2 Caltrans Review and Approval of Archaeological Documents

Following peer review (whether by district or CSO PQS), and any necessary revisions based on comments received, the report preparer signs the title page of the final archaeological document or HRER. If a Caltrans PQS has not prepared the document, then the responsible PQS indicates review and *approval* by signing the title page. The DEBC finally reviews and formally approves the document by signing the title page.

6.17 Endnote

Deagan, Kathleen.

1988 Neither History nor Prehistory: the Questions that Count in Historical Archaeology. *Historical Archaeology* 22:7-12.

Chapter 7: Built-Environment Cultural Resources Evaluation and Treatment

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Chapter 7:

Built-Environment Cultural Resources Evaluation and Treatment

7.1 Introduction

This chapter outlines Caltrans policies and procedures under federal and state laws and regulations for identifying and evaluating the built environment, which includes buildings, structures, objects, certain sites, and districts, that may be affected by Caltrans projects. It also discusses findings of effect for built-environment properties, options for mitigation measures, and Caltrans' stewardship responsibilities for historic properties and historical resources under its ownership or control. Built-environment issues that have been challenging for Caltrans projects also receive specific attention in this chapter.

The primary applicable laws and regulations discussed in this chapter are Section 106 of the National Historic Preservation Act (Section 106), the California Environmental Quality Act (CEQA), the California Public Resources Code 5024 (PRC 5024), and the California Historical Building Code (CHBC). The State Historic Preservation Officer (SHPO) and Caltrans as delegated by the Federal Highway Administration (FHWA) have primary review responsibilities for cultural resources studies conducted under federal laws and regulations; the SHPO and Caltrans Division of Environmental Analysis Cultural Studies Office (CS) are the primary review agencies for PRC 5024 and Governor's Executive Order W-26-92 compliance for state-only projects and activities that involve state-owned cultural resources. Caltrans has review responsibilities under CEQA when Caltrans is the lead agency.

As used in this chapter and in Caltrans cultural resources guidance and studies, the terms "cultural resource," "historic property," "historical resource," and "significant cultural resource" have precise meanings. See [Chapter 4](#) and [Exhibit 1.3: Definitions of Terms](#) for definitions.

7.2 The Disciplines of Architectural History and History

Architectural history addresses the social and aesthetic aspects of culture through the study of style, form, and design and their historical development, as well as changes in technology through analysis of the evolution of engineering practice and the use of materials in construction. The discipline of architectural history attempts to

understand the past through the perspective of the existing architectural and vernacular heritage. By analyzing buildings, structures, and objects, either singly or in groupings, both architect-designed and vernacular, one seeks to explain how culture, economics, demography, technology, politics, and artistic expression in the past are reflected in the built environment. In addition, architectural history helps to demonstrate that the design and spatial arrangement of the structures in which previous generations lived, worked, played, studied, and worshipped reflect how such generations felt about those activities and how their artistic, cultural, and ethnic heritage were expressed in physical form.

History addresses the broad themes that help explain why events in a particular locality took the turn they did and how a particular cultural resource fits into the larger picture. The knowledge of dominant themes in American history is an essential component of the historian's education, but only a part. Combined with this specialized understanding of the history of the United States and California is an ability to think critically about the veracity of the data collected and to apply broader historical theory to commonplace research problems. Basic to the discipline is the historian's special way of looking at people and places over time. Almost automatically, the historian poses certain questions, such as: How did this evolve over time? What are its origins? Why did it develop when it did? Who were the people involved, and what were the reasons for their decisions? Summations regarding cause and effect and conclusions made in evaluating a particular historic resource are actually comprehensive generalizations of a very high order. And the ability to make these generalizations is the ability to think historically.

Over one-third of California's National Register listed and determined eligible historic properties qualified under Criteria A, or their association with events or developments significant in our past, and more rarely, B, for their association with important individuals.

Thus, architectural historians and historians also are prepared to address a wide variety of built environment features, such as irrigation systems, vernacular landscapes, industrial complexes, ranches, free-standing commercial signs, transportation systems, and sites where major historic events took place. Besides considering the culturally based esthetic dimensions underlying the design and materials of a structure, architectural historians are attuned to the way in which a structure fits into national and regional historical developments.

7.3 Professional Qualifications

In this handbook, the term “architectural historian” refers to all cultural resources specialists who meet the Caltrans Professional Qualifications Standards as Architectural Historian (AH) or Principal Architectural Historian (PAH), regardless of civil service classification or job title; the term includes Caltrans staff and other professionals, except as noted. For Caltrans purposes, the title of architectural historian is applied to both architectural historians and historians, conforming to the existing Environmental Planner (Architectural History) series classification, but it encompasses the work of both disciplines.

See [Chapter 1 Section 1.3.5](#) and the Section 106 Programmatic Agreement (106 PA¹) [Attachment 1](#), and for state-only projects, the 2015 *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 (5024 MOU²)* [Attachment 1](#) for a discussion of professional qualifications, minimum standards, and certification levels under the 106 PA. Caltrans staff who meet these Professional Qualifications Standards, have completed specific training, and have received approval of their qualifications will be certified by Headquarters Cultural Studies Office (CSO) as Professionally Qualified Staff (PQS), as Architectural Historian (AH) or Principal Architectural Historian (PAH). Professional historians and architectural historians outside of Caltrans who meet the Caltrans Professional Qualifications Standards for Architectural Historian or Principal Architectural Historian may prepare technical studies for submittal under the 106 PA, but they are not designated as PQS under the 106 PA.

Under the 106 PA and the 5024 MOU, Caltrans PQS have responsibilities beyond preparing technical studies, including the review and approval of Section 106, CEQA and PRC 5024 cultural resources documents. Although consultants are not certified as PQS, are not delegated the review role under the 106 PA or the 5024 MOU as PQS, and may not approve documents, those professionals who meet the same

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California. The 106 PA is [Exhibit 1.1](#) of the Standard Environmental Reference Volume 2.

² The 5024 MOU is [Exhibit 1.2](#) of the Standard Environmental Reference Volume 2.

standards are qualified to prepare the same level of technical studies for the built environment.

Caltrans uses these same professional qualifications standards in fulfilling its cultural resources compliance for the built environment under other federal and state laws and regulations.

Projects that include maintenance, repairs, rehabilitation, relocation, ownership transfer or demolition of state-owned historic buildings and structures (such as historic roadways, bridges, retaining walls, pumping stations, etc.) need to be reviewed and, if appropriate monitored, by PQS who meet the Caltrans Professional Qualifications Standards as Principal Architectural Historian (PAH) and who also need to have the requisite training and experience in order to ensure that the *Secretary of the Interiors Standards for the Treatment of Historic Properties (SOIS)* are met. Appropriately qualified Caltrans Principal Architectural Historians need to review these projects prior to consulting with SHPO. See [Chapter 2 Section 2.8](#) for guidance on the appropriate procedures to follow. [Section 7.14.3](#) explains Caltrans policy on using the *SOIS*.

7.4 Built-Environment Resources

Architectural historians identify and evaluate buildings, structures, districts, sites, and objects, ranging from single-family residences, stores, schools, and factories, to downtown commercial districts, ranches, military bases, roads, railroads, bridges, tunnels, gardens, and statues. Guidelines on documenting and evaluating these resources include the *National Register Bulletins* series, among them, [National Register Bulletin 15](#) and [National Register Bulletin 16A](#), which provide basic guidance and define categories of historic properties. The definitions and discussions of these categories, below, are excerpted from *National Register Bulletin 15*.

7.4.1 Buildings

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Buildings eligible for inclusion in the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered, and its significant character-defining features must be identified. "If a building has lost any of its basic structural elements, it is usually

considered a ruin and categorized as [an archaeological] site”³ and, if warranted, will require evaluation by an archaeologist. Coordination between a qualified historian and a qualified historical archaeologist is strongly recommended.

7.4.2 Structures

The term structure is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter. Structures include roads, railroads, trails, bridges, dams, canals, ditches, and retaining walls. If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is usually considered a ruin and categorized as a site.

7.4.3 Districts

A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district derives its importance from being a unified entity, even though it often is composed of a wide variety of resources. The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. For example, a district can reflect one principal activity, such as a mill or a ranch, or it can encompass several interrelated activities, such as an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A district can also be a grouping of archaeological sites related primarily by their common components; these types of districts often will not visually represent a specific historic environment. Large-scale cultural landscapes are usually classified as districts.

7.4.4 Sites

A site is the location of a significant event, a prehistoric or historic occupation or activity, a small-scale cultural landscape, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. While it is unusual, physical remains need not mark a site if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events (see National Register Bulletin 15, [Section IV](#)). However, when the location of a prehistoric or historic event cannot conclusively be determined because no other

³ National Register [Bulletin 15, Section IV](#).

cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate.

A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of the natural feature is well documented through scholarly research. Generally, though, the National Register excludes from the definition of "site" natural waterways or bodies of water that served as determinants in the location of communities or were significant in the locality's subsequent economic development. While they may have been "avenues of exploration," the features most appropriate to document this significance are the properties built in association with the waterways.

In rare cases, if evaluation is warranted, the architectural historian may be requested to evaluate built-environment resources under Criterion D, for their potential to yield significant information about the historical past.

7.4.5 Objects

The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be movable by nature or design, an object is associated with a specific setting or environment. Small objects not designed for a specific location, or that have been moved from the original location for which they were designed, rarely require study. Such works include transportable sculpture, furniture, and other decorative arts, that unlike a fixed outdoor sculpture, do not possess association with a specific place. Examples of objects include boundary markers, monuments, fountains, sculptures, statuary, boats and locomotives.

7.5 Scope of Survey

[Chapter 4](#) contains a detailed discussion regarding how to scope built environment surveys and the use of the 106 PA. Chapter 4 [Section 4.2.1](#) discusses screened undertakings and those requiring studies; [Section 4.3](#) contains guidance on defining areas of potential effects and study areas; [Sections 4.4](#) and [4.5](#), respectively, discuss initial identification efforts and background research, while [Sections 4.6](#) and [4.7](#) provide guidance on initial surveys and cultural resources evaluations.

7.5.1 Section 106 Programmatic Agreement

The [106 PA](#) governs all undertakings under the Federal-aid Highway Program in California. This means that all Caltrans projects with FHWA involvement need to comply with the 106 PA instead of 36 CFR 800, except where the 106 PA itself

directs otherwise. The attachments to the 106 PA also provide general guidance that Caltrans follows on non-federal projects. [Chapter 2](#), particularly [Section 2.3](#), discusses the 106 PA, provides a detailed discussion of this document and the procedures to follow.

7.5.2 Local Bridge Seismic Retrofit Program

The 1995 Seismic Retrofit Programmatic Agreement (Seismic Retrofit PA) was terminated with the first amendment of the 106 PA, effective January 1, 2014. It was terminated because it refers to a version of the regulations at 36 CFR Part 800 prior to their amendment and the State-owned bridges and toll bridges have been retrofitted. But, since the Local Bridge Seismic Retrofit Program (LBSRP) is still in effect and considered an emergency program, there still is a need for the relevant provisions of the Seismic Retrofit PA that provide for expedited compliance with Section 106. The 106 PA [Stipulation XVII](#) and [Attachment 7](#) (see [Exhibit 1.1](#)) updated and incorporated certain of these provisions to comply with the current regulations in 36 CFR Part 800. Caltrans shall follow applicable stipulations in this Agreement to determine the seismic retrofit project's potential to affect historic properties.

106 PA Stipulation XVII and Attachment 7 apply *only* to seismic retrofit work on a local bridge that is federally funded and that involves either structural modification of an existing bridge or the replacement of a bridge by a newly constructed structure, including any associated activities within the Area of Potential Effects (APE) of the project. Note that if a project involves any upgrades, enhancements or other activities that are not specified in the 106 PA Stipulation XVII and Attachment 7, the provisions in the stipulation and the attachment may not be used to streamline Section 106 compliance.

Under the Seismic Retrofit PA, seismic retrofit projects are exempt from review under Section 106 when the project's activities are

- Restricted to the bridge itself, or
- Limited to one of the nine types of activities listed in [Attachment 7](#).

Seismic retrofit work on local bridges that are part of the LBSRP is exempt from CEQA because it is a statutory exemption.

7.5.3 5024 MOU

The 5024 MOU between Caltrans and the SHPO governs all projects and activities for state-owned historical resources within Caltrans jurisdiction. This means that all Caltrans projects and activities that include state-owned resources within the Project

Area Limits (PAL) now need to comply with the 5024 MOU. The attachments to the 5024 MOU also provide general guidance that Caltrans follows on non-federal projects and activities. [Chapter 2](#), particularly [Section 2.8](#), discusses the 5024 MOU, provides a detailed discussion of this document and the procedures to follow. When a federal undertaking includes state-owned historical resources, cite Stipulation III of the 5024 MOU that allows Caltrans to

- Use the 106 PA for PRC 5024 compliance;
- notify NHPO that there are state-owned historical resources within the APE for the federal undertaking; and
- Request SHPO's concurrence under PRC 5024 in addition to concurrence under Section 106.

See the 5024 MOU Stipulation III and [Chapter 2 Section 2.5.3](#) Types of Finding of Effects Documents, Processing the FAE, and Section 2.8 [5024 MOU Features and Streamlining Measures](#).

7.6 Preliminary research

Preliminary research and surveys, which are similar in methodology among many types of resources, are discussed in detail in [Chapter 4](#), [Sections 4.4](#) and [4.5](#). Refer to Chapter 4 for greater detail on general processes.

7.6.1 Primary and Secondary Sources

Documents used in historical research generally are classified as either primary or secondary sources. Secondary sources are those works that present or interpret historical information, that is, works that discuss the historic period but are not, themselves, of the period. They may include textbooks, journal articles, local histories, scholarly studies, reference works, and survey documents. Secondary sources usually are investigated first, and they are the main resource for preliminary research.

Primary sources are those works that are first-hand accounts of historic events or that are contemporaneous with the historic period. They may include letters, diaries, maps, public records, and newspapers of the time. Primary sources usually are investigated only *after* an examination of secondary sources and a field survey have narrowed the focus to specific properties and themes that warrant more intensive research.

Repositories for both primary and secondary sources include libraries, archives, government agencies, universities, historical societies, and private holdings. [Exhibit 4.2: Standard Sources of Information](#) describes both primary and secondary documents and provides information on standard sources.

7.6.2 Historical Themes and Context

The National Register states, “The significance of a historic property can be judged and explained only when it is evaluated within its historic context.” It defines historic contexts as “those patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear.”

Developing a historical context generally begins with compiling information from secondary sources on relevant historical themes. [National Register Bulletin 15](#) defines a theme as “a means of organizing properties into coherent patterns based on elements such as environment, social/ethnic groups, transportation networks, technology, or political developments that have influenced the development of an area during one or more periods of prehistory or history. A theme is considered significant if it can be demonstrated, through scholarly research, to be important in American history.”

Adequate historical research should be conducted to identify and develop the appropriate themes to determine whether those themes are significant and to establish the context within which to assess significance of the built environment. It is acceptable to use previously written historical contexts from other reports, so long as the excerpts are appropriately credited and cited. Understanding the connection between historical context and themes (or areas of significance) and the properties being evaluated is crucial in determining National Register eligibility. Also, it is essential to include the geographic and temporal extent of the relevant context (e.g., citrus growing in Riverside County 1880 to 1900; commercial development in Marysville’s central business district 1860-1890) to provide the context’s limits.

7.7 Field Surveys

Because pre-field surveys and background research are similar in methodology to many types of resources, please see [Chapter 4 Section 4.6.3](#) for details on conducting field surveys.

7.7.1 Safety Considerations on Field Surveys

Caltrans staff and consultants conducting field surveys on Caltrans and local assistance projects must be familiar with Caltrans safety policies and procedures for field trips, visiting construction and maintenance sites, and field surveys. See [Chapter 4 Section 4.6.3.4 Field Safety](#) for additional information. When documenting properties within the right of way, it is necessary to pay special attention to safety. When recording properties, such as roads, railroads or bridges, in or near the traveled way, it is necessary to follow safe field practices.

The [Caltrans Safety Manual](#) requires that protective clothing always be worn, and it is strongly recommended that one have a “buddy” standing lookout for hazardous conditions. In addition, Caltrans staff must provide this information to others visiting in the field, such as staff from partner agencies, consulting parties, and others who need to visit construction, maintenance and field survey sites.

To avoid becoming distracted by potential traffic dangers, it is important to be particularly alert while taking photographs. If photographs of a property cannot safely be obtained, do not pursue the effort or attempt any unsafe behavior. Instead, explain the situation as described in [Section 7.7.5](#) below. Trespassing is not permitted. Permission must be obtained from owners or tenants to safely and legally enter private property, as explained in [Chapter 4 Section 4.6.3.4 Field Safety](#).

7.7.2 Reconnaissance Surveys

When a project covers a large area and there are numerous properties that might require evaluation, if time constraints and the travel budget allow, a quick reconnaissance (windshield) survey is advisable prior to a formal field survey. The windshield survey can reveal the quantity, quality, and distribution of resources that might require evaluation, allowing the architectural historian to be better prepared for the full field survey. When an early field visit is not feasible, preliminary information might be gathered through use of the Caltrans Photolog and Digital Highway Inventory Photography Program (DHPP) accessible only to Caltrans staff, satellite photography such as Google Earth, existing aerial photographs and maps, previous studies, or contact with knowledgeable locals.

7.7.3 Properties Exempt from Evaluation

For federal undertakings the 106 PA identifies certain categories of properties that inherently lack potential for historic significance, and following review by appropriately qualified PQS or by consultants meeting the same standards, typically

do not warrant any further consideration. [Attachment 4](#) of the 106 PA defines these categories of properties, specifies the level of professional qualifications needed to exempt them, and describes exceptions to the exemptions. Historical Property Types 4, 5, 6 and 7 may only be exempt from evaluation *after review* by a Caltrans Architectural Historian or Principal Architectural Historian, or a consultant who meets the PQS standards for architectural history.

No written documentation or mapping of exempted resources is necessary. It is sufficient to state in the Historical Resources Evaluation Report ([HRER](#)) that, “*Consistent with Section 106 Programmatic Agreement Attachment 4, no [other] properties in the APE required evaluation.*” It is helpful to add the applicable property type(s) for future reference and projects. See [Chapter 4](#) and [Exhibit 2.6: Historic Property Survey Report \(HPSR\) Format and Content Guide](#) for information on addressing exempted resources in the Historic Property Survey Report (HPSR).

Consultants are not required to document their exempted properties for Caltrans PQS who are reviewing consultant-prepared documents. Caltrans PQS are responsible for ensuring only that the consultants are professionally qualified to exempt properties under 106 PA [Attachment 4](#); they are not responsible for the consultants’ conclusions.

Property Type 7: Post-World War II builders’ houses and housing tracts

The 106 PA [Attachment 4 Property Type 7](#) includes Post-World War II builders’ houses and tracts that are not unique, architect-designed houses as an exempt property type 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.

Follow the guidance in [Tract Housing in California, 1945-1973: A Context for National Register Evaluation](#) (Caltrans 2011) when considering the potential for significance.

Exempting Properties When the 106 PA Does Not Apply

For federal undertakings wholly or partly on, or that could affect, tribal lands, and for other federal undertakings for which the 106 PA does *not* apply, Caltrans uses the Cultural Resources Letter Report (Letter Report) format to consider cultural resources that normally would be exempted under 106 PA [Attachment 4](#). Letter Reports are used *only* to exempt properties from evaluation and not for other purposes. See [Exhibit 6.1: Cultural Resources Letter Report Format and Content Guide](#) for guidance when and how to use the Letter Report. District environmental staff may contact the Section 106/PA Coordination Branch (Section 106 Branch) Chief in CSO regarding appropriate use of the Letter Report.

Properties Exempt from Evaluation under CEQA

For state-only project use [5024 MOU Attachment 4](#) as the procedures for exempting cultural resources from evaluation. This attachment defines these categories of resources, specifies the level of professional qualifications needed to exempt them, and describes exceptions to the exemptions. Historical Resource Types 4, 5, 6 and 7 may only be exempt from evaluation *after review* by a Caltrans Architectural Historian or Principal Architectural Historian, or a consultant who meets the PQS standards for architectural history.

No written documentation or mapping of exempted resources is necessary. It is sufficient to state in the Historical Resources Evaluation Report ([HRER](#)) that, “*Consistent with PRC 5024 Memorandum of Understanding, no [other] cultural resources in the PAL required evaluation.*” It is helpful to add the applicable resource type(s) for future reference and projects. See [Chapter 4](#) and [Exhibit 2.14: Historical Resources Compliance Report \(HRCR\) Format and Content Guide](#) for information on addressing exempted resources in the HRCR.

Minimal Recordation for State-Owned Resources Exempt from Evaluation

Certain state-owned resources that are normally exempt from evaluation still require minimal recordation and require citations in a project HPSR or HRCR. [Exhibit 4.4: Minimal Recordation for Certain Exempted State-owned Resources](#) describes the procedure to be used and how to complete minimal recordation on a DPR523A Primary Record form. [Chapter 4 Section 4.4.1.2](#) also contains a brief discussion on the need to identify state-owned resources exempt from evaluation.

7.7.4 Dates of Construction

National Register and California Register criteria state that usually, a property must be at least 50 years old to be considered for historical significance, in order to ensure that sufficient time has passed to gain an adequate historical perspective for its evaluation. On the field survey, visual inspection generally will be adequate to sort out properties that may require evaluation based on their age. In order to conduct cultural resources surveys efficiently and not have to re-survey the same APE, it is Caltrans policy to treat as 50 years old all cultural resources that will become 50 years old by the time a project is scheduled to be completed.

Because Caltrans projects often have long lead times from environmental studies to project delivery, typically three to five years, it is necessary to take into consideration whether properties might become 50 years old during the life of a project.

If visual inspection alone does not clearly indicate a property's age, the following resources may be useful in verifying the construction date:

- Caltrans Right-of-Way database
- Caltrans Cultural Resources Database (CCRD)
- Sanborn Fire Insurance Company maps
- United States Geological Survey (USGS) topographical maps
- Historical maps and photographs
- Reclamation district maps
- Aerial photographs
- Land ownership atlases
- Subdivision plat maps
- Tax assessment and appraiser's records
- Building permit files
- Utility records (date of first water or sewer service)
- City or county directories
- Census records

7.7.5 Limits on Survey Coverage

Each property evaluated must be considered as a whole; however, that does not necessarily require physical access to, or recordation of, private spaces, restricted areas, or distant elements. Most built-environment properties can be adequately surveyed from public sidewalks or other public right of way. When physical access is restricted, unsafe, or infeasible, properties can be evaluated based solely on

information that is reasonably obtainable. In those circumstances the survey document should explain why the coverage was limited.

Built-environment surveys do *not* require consideration of residential interiors, suburban backyards, or similar spaces lacking public access. In rare cases, buildings may have accessible interior spaces with *demonstrable* potential for historical or architectural significance, e.g., an intact classic movie theatre interior, the ornate public lobby of a train station, or an early manufacturing plant with intact original equipment.

While large properties, such as ranches, military bases, irrigation systems, or industrial complexes, must be considered as a whole, the survey should focus on those elements that are subject to project effects, not on recording distant components that will not be affected. When buildings or other features in the APE may contribute to a larger potentially historic district, however, the district limits and its significance may require evaluation.

7.8 Evaluation of Built-Environment Resources

Resources that require evaluation are examined to determine their potential eligibility for inclusion in the National Register in accordance with Section 106, and to determine whether they are historical resources for the purposes of CEQA. For state-only projects, properties are evaluated under CEQA only. However, state-owned buildings and structures also may need to be evaluated for PRC 5024 compliance using the National Register criteria. See [Section 7.13](#) below for further guidance on the state process.

Historical research is an ongoing process throughout the identification and evaluation phases. It generally evolves from a general overview history of a large geographical area to a concentrated analysis of each property requiring evaluation. The level of research effort undertaken must be commensurate with the property's potential for significance and the ease or difficulty of reaching a conclusion and of providing supporting evidence for that finding.

Section 106 requires a "reasonable and good faith effort" to identify historic properties ([36 CFR 800.4\[b\]\[1\]](#)). It is Caltrans policy to conduct research sufficient to establish whether or not a property is eligible and to support that finding, but not to carry the research further. Workloads, standards of efficiency, and good public service prohibit doing otherwise.

7.8.1 Property-Specific Research

When resources require evaluation, research must focus on whether those properties are eligible for inclusion in the National Register or are historical resources for purposes of CEQA. Research should be as efficient as possible, identifying only those areas of significance that apply to the resources in the APE. Unrelated areas or extraneous information should not be in the HRER, however interesting they may be.

Most properties encountered during survey work will lack significance. They will be ordinary or modest in character and will not be associated with important events, individuals, styles, or property types. It is always possible that such a property, unremarkable on the surface, could contain hidden values, but it is more likely that any potential significance will be known locally or will quickly be discovered through preliminary research. For the vast majority of properties, what appears to be ordinary, in fact is so, and it is not good public policy to expend major effort exploring unlikely avenues and pursuing diminishing returns. At the same time, experience has shown that researchers may need to do extensive research for properties on the borderline of eligibility, and as much effort may go into properties that ultimately prove to be not eligible as those that are found eligible.

It is not expected that every survey will uncover eligible properties, and the “best” property in a survey area does not equate to eligibility. The context for evaluation is the established historic context, not the project area.

7.8.2 National Register Criteria

[National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation](#) specifies that in order to qualify for the National Register, “a property must be significant; that is, it must represent a significant part of the history, architecture, archaeology, engineering, or culture of an area, and it must have the characteristics that make it a good representative of properties associated with that aspect of the past.” The property must also possess the physical features necessary to convey that history.

A Queen Anne cottage with some, but not all, of the essential physical features of the Queen Anne style and a fair degree of integrity may be eligible for its architecture in a town with very few buildings of that type or period, while the same building might *not* be eligible in a large city where there may be dozens of Queen Anne style houses that retain most of their essential Queen Anne features *and* a high degree of integrity. Likewise, the same Queen Anne cottage might be eligible, regardless of its architecture, if it has significant historical associations with an event or a person important in the history of that particular community.

In National Register evaluations, significance must be viewed within the local historical and architectural context, which is the interpretive and comparative

framework, composed of similar resources in an area. This framework provides the basis for assessing the historical or architectural significance of a property. For example, a property determined eligible for its architectural style in one community might not be eligible in another community that had a richer stock of similar historic properties.

The criteria for evaluation are as follows:

- Criterion A. *Properties that are associated with events that have made a significant contribution to the broad patterns of our history.* Criterion A recognizes single historic events or patterns of events, when both the event itself and the property's association with it can be proven to be significant.
- Criterion B. *Properties that are associated with the lives of persons significant in our past.* Criterion B applies to the single property best associated with an important individual, such as the individual's home, office, or studio, and usually during the time of that individual's greatest achievements. More than one property can be associated with an individual, however, when each property represents a different important aspect of that individual's significance. Criterion B often is misapplied to a person's works, which are more appropriately evaluated under Criterion C.
- Criterion C. *Properties that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.* Criterion C addresses architectural, engineering, and artistic values, and it applies to historic districts, which may or may not contain individually eligible components.
- Criterion D. *Properties that have yielded or may be likely to yield information important in prehistory or history.* Criterion D generally applies to archaeological resources rather than to the built environment, but in extremely rare circumstances, built-environment properties can have Criterion D values, such as when an unusual rammed-earth building could possess important construction information that was otherwise unknown.

Of these four criteria, Criteria A and C are the ones that typically apply most frequently to built-environment properties.

For [CEQA](#) purposes, evaluate resources using the California Register of Historical Resources criteria codified in [PRC 5024.1\(c\)](#). See [Exhibit 4.3: National Register and](#)

California Register Comparison to see the similarities and differences of the National and California Registers both in the statutes and in the regulations.

Consult [National Register Bulletin 15](#) for additional guidance in applying the criteria. This bulletin also identifies several types of properties that are normally excluded from National Register eligibility (under Criteria Considerations; see [Section 7.8.4](#) below).

7.8.3 Integrity

In addition to significance under one or more of the criteria, a resource must retain historical integrity. [National Register Bulletin 16A](#) defines integrity as “*authenticity of a property’s historic identity, evidenced by the survival of physical characteristics that existed during the property’s historic or prehistoric period.*” It is through its integrity of physical character that a property conveys its history, and its sense of time and place. It is the physical manifestation of the historic themes and context.

The principal test in assessing whether a property retains integrity is:

Does the resource still retain the historical *identity* for which it is significant (i.e., the essential physical features that convey its historical character)?

Would it be recognizable to a person from the property’s period of significance?

National Register Bulletin 15 (Section VIII) characterizes historic integrity as “...the ability of a property to convey its significance...The evaluation of integrity is sometimes a subjective judgment, but it must always be grounded in an understanding of a property’s physical features and how they relate to its significance...Historic properties either retain their integrity or they do not.”

There are seven aspects of integrity (see Table 1). All seven aspects of integrity and every essential physical feature from its period of significance do not need to be present, but the property must retain enough essential physical features to convey its past identity and, thus, its significance.

1. Location	5. Workmanship
2. Design	6. Feeling
3. Setting	7. Association
4. Materials	

Essential physical features define:

- 1) *Why* a property is significant (the applicable National Register Criteria and Areas of Significance).
- 2) *When* it was significant (Period of Significance).

The eligibility criteria and areas/ periods of significance determine which aspects of integrity are most critical to conveying significance. For example, if a property is important because it exemplifies a particular engineering type (Criterion C), the integrity of the property's design, materials, and workmanship are vital. Integrity of feeling and association may be more meaningful to properties eligible for their association with persons or an event, such as citrus growing the late 19th century (Criterion A).

The steps necessary in assessing integrity are outlined in *National Register Bulletin 15* [Section VIII](#) as

- 1) Define the *essential physical features* [also called character-defining features] that must be present to represent the property's significance.
- 2) Determine if the *essential physical features are visible enough* to convey their significance.
- 3) Determine if the property needs to be compared to similar properties.
- 4) Determine *which aspects of integrity* are particularly important to the property and *if they are present*.

Historic setting is a factor in determining the boundaries of a historic property. It is mentioned here to emphasize its importance in determining historic integrity. The term setting "refers to the *character* of the place in which the property played its historic role" (*National Register Bulletin 15*). Thus, if a property retains its integrity of setting along with other essential physical features, it would convey sense of time and place from its period of significance.

7.8.4 Criteria Considerations

The National Register Criteria and the California Register both identify several types of properties that normally are excluded from eligibility or listing (see table below). However, there are National Register Criteria Considerations and California Register Special Considerations that specify the conditions under which these property types may be eligible for the National Register or considered historical resources under CEQA.

See [Exhibit 4.3](#), for an explanation of the considerations in Table 2 below.

TABLE 2

NATIONAL REGISTER CRITERIA CONSIDERATIONS FOR EXCLUDED PROPERTIES	CALIFORNIA REGISTER SPECIAL CONSIDERATIONS FOR EXCLUDED RESOURCES
a) Religious properties b) Moved properties c) Birthplaces and graves d) Cemeteries e) Reconstructed properties f) Commemorative properties g) Properties that have achieved significance within the past 50 years	1) Moved buildings, structures or objects. 2) Resources that have achieved significance within the past 50 years 3) Reconstructed buildings

These normally excluded properties do not need to go through formal evaluation, but they should be acknowledged in the HRER and their status explained. No further effort is needed for properties that meet the criteria considerations, unless they qualify as exceptions.

7.8.5 Complex Property Types

7.8.5.1 Linear Resources

Linear resources such as trails, roads, railroads, transmission lines, flumes, and canals that cross or border a project area and may extend far beyond it can be challenging to survey, record, and evaluate. The first step is to determine whether they are subject to potential effect by the proposed project, and whether they should be included within the project APE. The second step is to consider whether they require evaluation, or if they are exempt under [106 PA Attachment 4](#) or for state-owned resources [5024 MOU Attachment 4](#). The third step is to consider whether the linear resource should be documented as a “structure” using the DPR 523 building, structure, and object form, or its historic context and physical characteristics; it is better suited for recordation as an archaeological resource.

Some types of projects have little or no potential to affect a linear resource, either directly or indirectly, and thus the resource does not need to be included in the project APE. In these types of projects the linear resource is located adjacent to the project APE without any direct contact, or the linear resource crosses through or bisects the project APE, but has been dramatically altered or in many cases entirely destroyed. For example, if a project to replace a bridge over a canal does not involve any physical impacts to the canal, and the bridge has no historical associations with the canal (e.g., postdates the period of significance for the canal), the canal can be

excluded from the project APE. The HRER would specify that the canal was not included in the project APE *because the project has no potential to affect it*.

Depending upon the project, the jurisdictional lands it lies within, comments from stakeholders and other government agencies, there may be no need to delineate an ESA for the linear resource as described above. This decision will need to be made on a project-by-project basis, although the justification for this decision needs to be described in the accompanying report.

Even linear resources within a project APE may be found exempt from evaluation under 106 PA/5024 MOU Attachment 4. Such exempt properties include contemporary (i.e., post-date the period of significance) canals, pipelines, ditches, and levees; converted or contemporary railroad grades; short segments of bypassed or abandoned roads; city streets and sidewalks; transmission lines; and fences and walls. Linear resources can be determined exempt in accordance with 106 PA/5024 MOU Attachment 4, because such properties generally are subject to routine maintenance and improvement projects, and consequently they are often substantially altered and can thus be found exempt by appropriately qualified PQS or consultants.

If a project does have potential to affect a linear resource that is not exempt from evaluation, the resource as a whole must be considered. Formal recordation and evaluation along the entire length of a linear property, however, rarely is necessary. The level of effort will depend on the nature and scope of the project and its potential to affect the property as a whole. If a project has the potential to affect only a short segment of a long linear resource, the property as a whole at minimum should be briefly described or examined, its potential eligibility assessed (e.g., National Register criteria, approximate boundaries, level and period of significance), and, with CSO's approval, it may be considered eligible for the purposes of the project only, pursuant to 106 PA [Stipulation VII.C.4](#) or [5024 MOU Stipulation VIII.C.4](#). The segment subject to potential effect then is evaluated in the context of the larger property as to whether it would be a contributor, and whether that segment would be considered eligible or ineligible for the purposes of the project only. Include a statement in the HRER that the segment(s) is/is not a contributor to the larger property should the property ever be determined eligible for inclusion in the National or California Registers.

7.8.5.2 Trails

California contains traces of numerous eighteenth- and nineteenth-century emigrant trails, such as segments of the Old Spanish Trail in southern California, and segments of the California Overland Emigrant Trails in northern California, that have potential for historical significance in local, regional, state, or national history. If any traces of these early trails are located within the APE, the trail will require evaluation.

It cannot be expected that all early trails will be clearly visible on the ground today. Many have vanished through natural erosion, modern highway construction, and other forms of development. The rarity of these trails themselves is an important factor in assessing their potential significance.

Evaluation of these resources may require an interdisciplinary approach with historical archaeologists. In addition, the evaluations should be conducted in cooperation with trail organizations, such as Oregon-California Trails Association (OCTA), and the federal agencies, such as the Bureau of Land Management (BLM), U.S. Forest Service (USFS), and the National Park Service (NPS), since many trails cross political boundaries and varying jurisdictions. Many historic trails in California have been designated under other federal laws that have their own criteria, such as the [National Historic Trails Systems Act](#). Regardless of any such other designation a trail may possess or have the potential to possess, Caltrans evaluates trails in accordance with the National Register and California Register eligibility and integrity criteria.

Caltrans is in the process of finalizing a historic context and evaluation procedures for roads and trails in California. When complete, this guidance should be followed whenever there are trails roads or highways requiring evaluation. This document will provide historical contexts for trails, roads and highways in California, as well as guidance for recognizing, classifying, and describing these systems and their individual components, determining appropriate level of documentation, and determining significance and integrity. The guidelines also will contain an extensive bibliography and suggestions on organizing the information in a report format.

7.8.5.3 Streets and Roads

For the most part, streets and roads and their associated features form an important part of this nation's infrastructure, and as such generally require some level of study. City streets, isolated segments of bypassed or abandoned roads, sidewalks, retaining walls, and fragments of bypassed or demolished bridges may be exempt from evaluation under [106 PA Attachment 4](#), or for state-owned resources [5024 MOU Attachment 4](#).

Short, isolated segments of abandoned or bypassed roads may be exempt from recordation or evaluation, even when they are part of an old road that possesses historical associations. Such a property, however, is *not* exempt if it is long enough to convey a sense of the road's historic context or potential significance, or if there are multiple (discontiguous) segments that collectively could convey potential significance. Because there is no definition of how short is too short a segment or roads that have historic significance, one may want to consult with the Section 106 Branch Chief or the BEPS Branch Chief in CSO.

In most cases, if roads and related features are not associated with significant themes, or if their significance cannot be conveyed because of loss of integrity, neither recordation nor evaluation is warranted.

7.8.5.4 Highways and Freeways

A number of California highways either have been listed in or determined eligible for inclusion in the National Register. The Old Ridge Route in Castaic, Los Angeles County, and the original route of the Old Redwood Highway (U.S. 101) in Del Norte County are listed on the National Register. Other sections of highway have been determined eligible for inclusion in the National Register as a result of Caltrans projects, including the Arroyo Seco Parkway (Pasadena Freeway) and segments of the Cahuenga Freeway in Los Angeles County, the Cabrillo Freeway in San Diego, Route 66 in San Bernardino County, Highway 50 over Echo Summit in El Dorado County, and the Feather River Highway in Plumas and Butte counties.

The Interstate Highway System is exempt from Section 106, except for individual elements that the U.S. Secretary of Transportation determined have national or exceptional historic significance and are considered historic properties for Section 106 and Section 4(f) purposes. Most of Interstate Highway system is exempt from consideration as a historic property under Section 4(f) of the U.S. Transportation Act. The individual Interstate elements that are historically significant are enumerated in the list of [Nationally and Exceptionally Significant Features](#) of the Interstate Highway System. The Interstate Highway system exemption does *not* apply to these individual elements. Refer to [Chapter 2 Section 2.2.7](#) for guidance on this exemption.

The Interstate Highway exemption does not apply to freeways and highways that are *not* officially part of the Interstate system.

While segments of the Interstate could be subject to review under state laws and regulations, the majority of the Interstate in California would meet the conditions

outlined in [106 PA Attachment 4](#). This is the guidance Caltrans also uses to exempt resources from evaluation under CEQA and PRC 5024. See [Chapter 2 Section 2.7](#) (State-only Projects) and [Section 2.8](#) (State-owned Cultural Resources) for further guidance.

In recent years, the state and federal governments officially have recognized the historical significance of several twentieth-century highways. At the federal level, Congress has passed an Act to Preserve the [Route 66](#) Corridor and the [Lincoln Highway](#) Study Act. At the state level, the California Legislature has recognized the historical significance of U.S. [Highway 99](#), Historic U.S. Highway [Route 101](#), U.S. Highway [Route 40](#), [alternate U.S. Highway Route 40](#), and U.S. Highway [Route 395](#). Note, however, that legislative recognition is commemorative and does not equate to eligibility for the National Register. There are historic highway associations that focus on specific routes and the public has showed an interest in designating certain routes as scenic and/or historic. While it does not translate directly into National Register or California Register eligibility, it is important to be sensitive to the public and legislative interest in these routes.

7.8.5.5 Railroads

Because railroads are almost invariably over fifty years old and have the potential to possess significance for their role in California's history and economy, they generally require evaluation when a transportation project has the potential to affect them, unless contemporary systems. Railroads are private property, are extremely dangerous, and should not be entered by field crews without first obtaining permits to enter, as explained in [Chapter 4 Section 4.6.3.4 Field Safety](#), and [Chapter 5 Section 5-11.2](#).

However, projects on a highway that merely parallels a railroad or that intersects it at an existing grade crossing, or construction of a new over- or undercrossing that does not physically touch the railroad, have limited potential to affect it. In such cases, the railroad need not be included in the project APE. Physical proximity of one transportation facility to another does not necessarily introduce an effect.

Because modern railroad grade crossing already constitute alterations that postdate any potential historical significance, a project that modifies such grade crossings is unlikely to affect any National Register significance a railroad might possess.

Rather, this would amount to changing a noncontributing segment of the railroad, should the property as a whole be significant.

It is sufficient in such cases to state in the HRER that the railroad was not included in the project APE because the project *has no potential to affect it*. No further discussion of the railroad is necessary; do not mention it in the HPSR.

When an evaluation is warranted, it is conducted in a focused manner that concentrates on the segment within the APE. If the railroad as a whole appears to possess significance, then that segment in the project APE is assessed within the context of the property *as a whole* to determine whether the segment retains sufficient integrity to convey a sense of the railroad's significance.

Loss of original rails, ties, and ballast does not necessarily indicate loss of integrity for a railroad, because those elements are subject to frequent replacement on working lines. Railroads in use for many years are no more likely to retain those original materials than are houses of the same age, for example, to possess an original roof. If materials are less than fifty years of age, the evaluation should clearly state that fact, and that they post date the period of significance. Railroads that have lost important associated buildings and structures, such as depots, maintenance sheds, roundhouses, watchman's towers and signal bridges, may not be eligible for inclusion in the National Register because of the loss of integrity of materials and association.

When a railroad is abandoned, rails and ties are typically removed for reuse, thus an abandoned railroad cannot be expected to possess those elements of materials and workmanship. The property then would need to possess a high degree of the other aspects of integrity (location, setting, design, feeling, and association) in order to retain sufficient integrity for eligibility.

Railroad grades that have been converted to uses such as roads, levees, or bike paths, may have lost historic integrity, and therefore, would not meet National or California Register criteria; they will be exempt from evaluation, provided they are not part of a larger historic property requiring evaluation (see [106 PA Attachment 4](#) or [5024 MOU Attachment 4](#)).

7.8.5.6 Water Conveyance Systems (Ditches and Canals)

Not all water conveyance properties encountered in the course of a project require study. No studies are required when the project has little or no potential for effect on the property and it can be excluded from the project APE, or when the property is exempt from evaluation. Any work on a noncontributing bridge that merely crosses over a canal has little potential to affect any National Register significance that the canal might possess. Work on or in the approximate footprint of a bridge that

postdates the canal, including full replacement of the bridge, will be considered an alteration to a noncontributing segment of the canal, should the property, as a whole, be significant.

It is sufficient in such cases to state in the HRER that the canal was not included in the project APE because the project *has no potential to affect it*. No further discussion of the canal is necessary, and it is not necessary to discuss the water conveyance feature in the HPSR.

Even when the project APE includes canals and related features, these resources may be exempt from evaluation. [106 PA Attachment 4](#), and for state-owned resources the [5024 MOU Attachment 4](#), contain a list of water conveyance and control features that typically are exempt. Additional water conveyance properties that are substantially altered also may be determined exempt by Caltrans PQS or consultants who are appropriately qualified to make this exemption.

A bridge that was constructed as part of a canal system, however, could be a contributing element to that larger property. If the bridge may be a contributor to a larger system or if a project otherwise has the potential to affect a canal or other water conveyance feature, the property would be included in the project APE. Unless exempt from evaluation, the canal, and possibly the system of which it is a part, will require evaluation.

Depending on the project's potential for effect and on the characteristics of the resource itself, the evaluation may concentrate on just the affected segment of the canal. But in any case, the study should examine the segment within the context of the property as a whole.

Follow the guidance in Caltrans' "[Water Conveyance Systems in California](#), Historic Context Development and Evaluation Procedures" whenever there are water conveyance resources requiring evaluation. This document provides an historic context for water conveyance systems in California, as well as guidance for recognizing, classifying, and describing these systems and their individual components, determining appropriate level of documentation, and determining significance and integrity. The guidelines also contain an extensive bibliography and suggestions on organizing the information in a report format.

7.8.5.7 Bridges

California Historic Bridge Inventory

Unlike other types of resources, most bridges on both state highways and local roads already have been evaluated for National Register eligibility in the California Historic Bridge Inventory (first completed in 1986 and updated in 2006, 2010 and 2015). The 2015 update includes bridges built between 1965 and 1974. Therefore, few highway or road bridges will require formal evaluation for Caltrans projects. The findings of the California Historic Bridge Inventory, or subsequent amendments to those findings, typically is the only documentation required, and is referenced the HRER and HPSR/HRCR, as appropriate. [Exhibit 7.2: Bridge Numbering and Historic Status Codes](#) contains an explanation and listing of the five “Historical significance” categories assigned to bridges in the inventory.

Bridge Evaluations

While formal bridge re-evaluations rarely are necessary, new information, subsequent alterations, passage of time, changing perceptions of significance or loss of similar properties may be cause for reconsideration. Caltrans projects also may involve railroad bridges, privately owned bridges, or other bridges that were not included in the Historic Bridge Inventory and that consequently must be evaluated. Please contact the BEPS Branch Chief in CSO for assistance and further guidance if it appears that a bridge evaluation is warranted.

Note that culverts not assigned Caltrans bridge numbers are identified in the 106 PA [Attachment 4](#) and the [5024 MOU Attachment 4](#) as a property type typically exempt from evaluation.

For any bridges that are evaluated, copies of any evaluations, whether or not the bridge is National Register eligible, and the SHPO’s subsequent concurrence letters need to be sent to the CSO BEPS Chief for inclusion in Caltrans’ master bridge inventory.

7.8.5.8 Historic Districts

As defined by *National Register Bulletin 15*, a district “possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.”

Typically, significant historic districts are found eligible under Criterion C because they “represent a significant and distinguishable entity whose components may lack individual distinction.” Districts may also be found eligible under Criterion A should they also possess important historical associations with significant events. Criterion D also might be applicable if there is a historical archaeological component. Otherwise, Criteria B and D rarely apply to districts.

The buildings, sites, structures, or objects that compose a district form a significant and distinguishable entity, but they may lack sufficient integrity or significance to be eligible as individual properties. The interrelationship of resources creates the character of a district and can project a visual sense of the historic environment, as well as represent “an arrangement of historically or functionally related properties.”

The Highland Historic District in Riverside County embraces the entire original town-site of Highland, which was an important citrus growing area in the early twentieth century. Its period of significance spanned from the late 1890s to the 1930s, when citrus production declined. It was determined eligible under Criteria A and C.

The Bay Terrace District in Vallejo, represents an important event that occurred over a relatively short period of time. It contains a cohesive group of dwellings built during World War I by the federal government to house Mare Island Naval Shipyard workers. It was part of a national plan that used progressive designs for worker housing and innovative concepts of site planning. As a well-preserved example this nation-wide wartime construction program, it was determined eligible under Criteria A and C at a national level of significance.

While a district may contain buildings, structures, objects and features that are not individually eligible for inclusion in the National Register, the resources that do make up the historic character of the district must have sufficient historic integrity to convey a sense of time and place from the period of significance. Contributing elements of the district must reflect its historic theme or area of significance, evoke a sense of that time and place, and retain a sufficient degree of integrity from the period of significance.

A historic district must have substantially more contributing elements than noncontributing elements. Numbers do not tell the whole story, however, as some features will have a more substantial presence than others or have a greater effect on the overall appearance of the district. Keep in mind that an eligible district should appear much the same as it did during its period of significance. This can be done only if the preponderance of resources, or their effect, within the district boundaries clearly reflects the physical appearance of the area during the period of significance.

A generally accepted rule of thumb: contributing elements should constitute roughly two-thirds or more of the total number of features of substance within the historic district boundaries

A formal evaluation of an entire large district on the periphery of a project area is not always necessary, depending on the nature and scope of the project and its potential to affect the property as a whole. If a project has the potential to affect only a small component of a large district, the district may be briefly examined, its potential eligibility described (e.g., National Register criteria, approximate boundaries, period of significance), and it can be considered eligible for the purposes of the project only. The individual properties subject to effect then may be evaluated as to whether they are contributors to that district.

7.8.5.9 Mobile Home Parks and Manufactured Housing

Mobile home parks should be evaluated unless they are exempt due to their age or substantial alteration. They should be treated as complexes or districts. Mobile home parks are therefore not a property to write off automatically. The permanent features of a mobile home park – the street layout, plot layout (e.g., homes that are perpendicular, parallel to street or slanted along the street), main entrance, carports or parking pads, landscaping, offices and other permanent buildings, playgrounds, etc. are the significant features that would need to retain integrity from the era in which the parks would be significant. The homes themselves are less permanent, and there often is no good way to determine how long a given mobile home has been at its current location within the park. Exempting a mobile home park from evaluation based on “substantial alteration” should be based on changes to the permanent features, acknowledging the impermanent nature of the individual homes.

Evaluating a mobile home park as a single property is similar to a postwar housing tract. It is not necessary to document or evaluate individual mobile homes as separate properties, unless there is some indication that a particular mobile home might meet one of the National Register criteria. This, however, would be a very rare occurrence.

In most cases, the documentation and evaluation can be brief, since most mobile home parks will have little potential to meet the National Register criteria. Although mobile homes can be moved, in practice they are often moved only once – from the factory to the mobile home park. When the residents leave, they typically sell the home to a new owner who moves in – the house itself is not moved. An analogy was made to “temporary” classroom buildings on school properties.

There is an important distinction between mostly early 20th-century trailer courts/trailer parks, used as an alternative to motels or tent camping, and the later era mobile home parks, used as permanent residences. The contemporary recreational vehicle (RV) park would be the modern analogy to the earlier trailer park.

Some time references in the evolution of trailers to mobile homes to manufactured homes should be kept in mind:

- World War II: The big boom in mobile homes as permanent housing came with the onset of World War II when mobile homes could be set up in a short period of time to house military personnel on bases and factory workers engaged in the build-up of the war industry. These were intended to be temporary housing and the parks themselves were rudimentary.
- Early 1940s: Trailers get longer and wider. “By 1943, trailers averaged a width of 8ft and were over 20 ft in length, they had up to 3 to 4 separate sleeping sections but no bathrooms. By 1948, lengths had reached up to 30 ft and bathrooms were introduced. Mobile homes continued to grow in length and widths such as doublewide.⁴” These longer and wider trailers lent themselves to use as permanent homes more easily than as vacation trailers; these much larger trailers made navigating often narrow and windy roads and highway more difficult to navigate.
- 1950s to early 1960s: Purchasing mobile homes without having to purchase land upon which to place the home provided an affordable alternative to the traditional model of buying a parcel of land upon which a permanent house was built. Many vacation trailer parks began their transition to permanent housing at this time by offering plots for rent on a monthly or longer-term basis.

Scant construction standards and zoning: The construction of mobile homes was unregulated and units were sold—with varying warranties—in the same manner as automobiles, through dealerships. The parks also were not well regulated and generally were built on the outskirts of towns on cheap land.

- 1960s to 1970s: During these decades mobile home parks were deliberately planned subdivisions, with lots laid out in a variety of patterns, and offered

⁴ Mary Bellis, “Mobile Homes,” About.com, accessed July 6, 2015, <http://inventors.about.com/library/inventors/blmobilehome.htm>

amenities such as utility hookups and parking pads, an office, and laundry facilities. There were approximately 50 mobile home park subdivisions nationwide in 1960,⁵ but zoning and subdivisions regulations had not caught up. This is an era when lots began to be sold instead of rented.

- 1974: Congress passed the "National Manufactured Housing Construction and Safety Standards Act of 1974," which included standards for the “construction, design, and performance of a manufactured home, which meets the needs of the public, including the need for quality, durability and safety.” Because of the permanency of mobile homes, the Mobile Home Manufacturers Association pushed for a change in name for their product from mobile home to manufactured home.
- 1976: This is a watershed year because the regulations promulgated to implement the 1974 act, the [Federal Manufactured Home Construction and Safety Standards](#), were codified at 24 CFR Part 3280. The standards cover “all equipment and installations in the design, construction, transportation, fire safety, plumbing, heat-producing and electrical systems of manufactured homes which are designed to be used as dwelling units.” (24 CFR 3280.1) It requires that all manufactured homes built June 15, 1976 and after have a permanent data plaque that lists the manufacturer, serial number, model and date of manufacture. These plaques appear not only on homes in mobile home parks, but also modular homes that are assembled on-site on typical residential parcels; this is one way to tell whether a “single-family home” was built on-site or was fabricated elsewhere and assembled on site.

As a result of these regulations, the term “mobile home” refers to any unit built prior to June 15, 1976, and “manufactured home” refers to any unit built after that date and used as permanent housing.

Manufactured housing companies also had an upsurge in modular units, from single-family houses to whole apartment complexes in the 1970s, in which prospective buyers could purchase a specific model home that was built in a factory in sections, with all the appliances, cabinets, counters and closets installed, then transported by trucks to a parcel of land in units and assembled on site. Apartment complexes and

⁵ Frederick H. Bair Jr. “Regulation of Mobile Home Subdivisions,” Information Report No. 145, April 1961. American Society of Planning Officials, Historic PAS Report Series, accessed July 6, 2015, <https://www.planning.org/pas/at60/report145.htm>

motels were assembled in the same way. One of the largest companies in the 1970s was Cardinal Industries out of Columbus Ohio, which assembled “apartment communities,” in addition to starting the Knights Inn “modular” motel chain, whose first location opened in 1974 in Columbus. With the surge in manufactured housing in the early 1970s, one should keep in mind that there may be some early examples in California that may need to be evaluated.

In addition to the resources listed below that other Caltrans architectural historians have used, there is a plethora of online resources that contain information about mobile homes, mobile home parks and manufactured housing

- Adkins, Crystal, “The History of Manufactured Homes,” About.com, (<http://manufacturedhomes.about.com/od/Manufactured-Home-History/fl/The-History-of-Manufactured-Homes.htm>).
- "America Takes to the Motor Court," *Business Week*, June 14, 1940, p. 21.
- Bair, Frederick H. Jr. “Regulation of Mobile Home Subdivisions,” Information Report No. 145, April 1961. American Society of Planning Officials, Historic PAS Report Series, (<https://www.planning.org/pas/at60/report145.htm>)
- Belasco, Warren, *Americans on the Road: From Autocamp to Motel, 1910-1945*. Cambridge: The MIT Press, 1979. Bellis, Mary, “Mobile Homes,” About.com, (<http://inventors.about.com/library/inventors/blmobilehome.htm>)
- Brimmer, Frank E. "Fundamentals of Motor Camping," Official AAA Camp Directory. Washington, D.C.: AAA, 1928, p. 16.
- Chittenden, Newton H. *Health Seekers', Tourists', and Sportsmen's Guide to the Sea-side, Lake-side, Foothill, Mountain and Mineral Spring Health and Pleasure Resorts of the Pacific Coast*. San Francisco: C.A. Murdock & Co., 1884.
- Drury, Margaret J. *Mobile Homes: The Unrecognized Revolution in American Housing*. New York, NY: Praeger Publishers, 1972.
- Elwood, P.H. "The Trailer: Liberator or Menace?" *The American City*. December, 1936.
- Fogarty, Frank. "Trailer Parks: The Wheeled Suburbs." *Architectural Forum*. July, 1959.

- Hart, John Fraser, Michelle J. Rhodes, and John T. Morgan, *The Unknown World of the Mobile Home*. Johns Hopkins University Press, 2002.
- Johnson, Maura. *From Tents to Triple Wides*. Master's Thesis, Cornell University, 1986.
- Morris, Earl W. and Margaret E. Woods, editors. *Housing Crisis and Response: The Place of Mobile Homes in American Life*. Ithaca, NY: Cornell University, 1971.
- Rockland, Michael Aaron. *Homes on Wheels*. New Brunswick, NJ: Rutgers University Press, 1980.
- Wallis, Alan D. "House Trailer: Innovation and Accommodation in Vernacular Housing," in *Perspectives in Vernacular Architecture III*. Thomas Carter and Bernard L. Herman, editors. University of Missouri Press, 1989.
- _____. *Wheel Estate: The Rise and Decline of Mobile Homes*. New York, NY: Oxford University Press, 1991.

7.8.5.10 Historic Landscapes

Historic landscapes generally are categorized either as sites or districts, and specifically defined as either vernacular or designed landscapes.

Vernacular landscapes (sometimes called cultural landscapes) are the result of past human activities, land uses, and choices. They may display a particular arrangement of resources reflecting a significant land use, rather than a conscious design. These landscapes often are rural. An example could be an important dairy-farming region in which the farms display a consistent pattern and style from an earlier time.

Designed landscapes are conscious works in a recognized style or tradition. They may be associated with significant developments, persons, or events in landscape architecture. Aesthetic values often play an important role. An example could be a park or the grounds of a college campus designed by an important landscape architect.

Generally, historic landscapes that are categorized as sites are recorded and evaluated in the same manner as other sites, while historic landscape districts are treated in accordance with the same basic principles as other historic districts.

For additional guidance on landscapes see:
[National Register Bulletin #18
Designed historic landscapes](#)
[National Register Bulletin 30
Rural Historic Landscapes](#)
[National Register Bulletin #41
Cemeteries and Burial Places](#)
[National Register Bulletin #42
Historic Mining Properties.](#)

As with other historic districts, formal evaluation of a large landscape district on the edge of a project area may not be necessary. If there is little potential to affect the landscape as a whole, it may be briefly discussed, outlining the qualities of its potential eligibility, and the landscape can be considered eligible for the purposes of the project only. Individual components subject to effect then would be evaluated to determine whether they are contributors to that historic landscape.

Caltrans has developed the “[General Guidelines for Identifying and Evaluating Historic Landscapes](#),” which should be followed when potential landscapes are encountered. The guidelines include recognition, classification, and description of landscapes; determination of the appropriate levels of documentation; and determinations of significance and integrity. The guidelines also contain an extensive bibliography and suggestions for organizing the information in a report format.

7.8.5.11 Traditional Cultural Properties

Although Traditional Cultural Properties (TCPs) usually are associated with Native American values, on rare occasions built-environment resources also may qualify as TCPs. Consult [National Register Bulletin 38: Guidelines for Evaluating and Documenting Traditional Cultural Properties](#), for guidance in evaluating any potential TCPs.

National Register Bulletin 38 states that a traditional cultural property can be “defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.” Such associations must be traditional, important, and continuing, playing the same role in the community today as in the past. Just as with any other property, *a TCP must meet National Register criteria for significance and integrity.*

Developing a compelling argument for eligibility as TCPs of built-environment properties such as ethnic neighborhoods can be difficult and time-consuming. It should be pursued *only* after careful consideration. Sometimes properties that might appear to have potential TCP values could be better recognized and more easily and appropriately documented as National Register property types (buildings, structures, objects, historic districts, etc.) under the “area of significance” categories outlined in *National Register Bulletins 15 [Part V](#) and 16A [Part III.8](#)*. However, when built-

environment properties do have values that best can be addressed as a TCP, they should be evaluated as such, following the guidance in [National Register Bulletin 38](#).

It must be emphasized that eligibility of historic-era TCPs should be based on scholarly historical research and that the resource or traditional activities must be based in the past and, in continuing use for at least 50 years, and the TCP must have integrity. When supporting documentary evidence can be expected to exist, historical research must be conducted, and the findings examined with intellectual rigor. The associated community also must be clearly identified, and the full range of its members' opinions noted, including opposing viewpoints.

Because of the potential for objections to such a finding, the argument for eligibility of a historic-era TCP should be especially careful to present an objective view and to address any controversies regarding the finding.

7.9 Eligibility Determinations

All built-environment properties within the APE, other than those determined to be exempt from evaluation, must be evaluated for eligibility for the National Register and clearly presented as either eligible or ineligible. For borderline properties where the conclusion is not clear, it may be helpful to: 1) consult peers for guidance, and 2) draft arguments both for and against, to see which is the stronger. It is not allowable, however, to defer evaluation to a future time or to offer an “indeterminate” finding.

7.9.1 Ineligible Properties

Properties are determined to be not eligible for inclusion in the National Register when they either lack significance under any of the National Register criteria, or they lack the integrity necessary to convey any significance they might possess.

A reasonable level of effort must be made to identify possible significance, “reasonable” depending on the particular circumstances for each property. If research fails to reveal any potential for important associations under criteria A or B, and the property displays no apparent values under Criterion C, or if it lacks integrity because of substantial alterations, and there is no potential for archaeological deposits (see [Chapter 6](#)), the property can be determined to be not eligible for inclusion in the National Register.

An adequate argument has to be constructed for ineligibility, as well as for eligibility, and the determination must convey the rationale and present the evidence in support

of the conclusion. Generally, the more obvious the conclusion, the less effort needs to go into the argument.

7.9.2 Eligible Properties

Properties are determined to be eligible for inclusion in the National Register when they possess significance under any of the National Register criteria, *and* they possess the integrity necessary to convey that significance. The guidance also is used for determining boundaries for historical resources under CEQA and compliance with PRC 5024.

A determination of eligibility must convey specific findings, the rationale for those findings, and supporting evidence. It is a professional obligation also to reveal any evidence or argument for a contrary conclusion, which should be discussed objectively, and the reason for the final judgment explained.

In order for the State Historic Preservation Officer to concur in a determination of eligibility, it is necessary to identify and provide justification for the following specifics the:

- *Applicable National Register criteria.* Only one criterion is needed for eligibility, but any other criteria that may apply should also be mentioned.
- *National Register property boundaries.* (See [Section 7.9.3](#), below.)
- *Period of significance.* More than one period can apply when a property has different phases of significance. A property significant for its architecture will generally have the date of construction as its period of significance, although the period can be extended to include the date of later alterations that have also acquired significance.
- *Level of significance.* National, state, or local.
- *Contributing and noncontributing elements.* Any substantial components that add to or detract from the property's significance, such as buildings, fences, or vegetation.

7.9.3 Historic Property Boundaries

Boundaries of a historic property must be delineated clearly and carefully, as they are a critical factor in the subsequent assessment of project effects on the property. The *National Register Bulletin*, [Defining Boundaries for National Register Properties](#), provides substantial guidance on establishing boundaries, including the following summary:

Selection of boundaries is a judgment based on the nature of the property's significance, integrity, and physical setting...Select boundaries that define the limits of the eligible resources. Such resources usually include the immediate surroundings and encompass the appropriate setting. However, exclude additional, peripheral areas that do not directly contribute to the property's significance as buffer or as open space to separate the property from surrounding areas. Areas that have lost integrity because of changes in cultural features or setting should be excluded when they are at the periphery of the eligible resources.

Current property lines (assessor's parcels) often are the appropriate boundaries for built-environment properties in urban or suburban areas, and sometimes for rural properties as well. When a historic property does not correspond with the current legal parcel, other kinds of boundaries may be used. Historic ownership maps may be used to show the original property lines from the period of significance; landscape features such as tree rows, stone walls, or roads may provide logical limits; or adjacent modern intrusions can represent appropriate boundaries for the limit of the eligible resource. Whatever boundaries are chosen, it is important that they be described in relation to other features in a manner that will clearly distinguish the eligible property from its surroundings.

The boundaries of a historic property *must be depicted* clearly on a map that accompanies the DPR 523 Building Structure and Object (BSO) Record or District Record (as appropriate), *and on the APE Map*. Include a narrative boundary description on the BSO or District Record.

Boundary lines need to be delineated on a map of appropriate scale and detail. For large properties, the boundaries may be drawn on a USGS quad sheet. If the boundaries are straight lines that form a polygon, Universal Transverse Mercator (UTM) coordinates can be used to designate the vertices of the property. If used, mark and label the UTM references on the map. See [National Register Bulletin #28: Using the UTM Grid System to Record Historic Sites](#).

In unusual cases where the property is a historic district composed of discontinuous elements, boundaries for each of the separate parcels of land comprising the district should be selected according to the guidelines presented in [National Register Bulletin 16A](#). This situation is limited to situations in which

- Visual continuity is not a factor of historic significance
- Resources are geographically separate

- Intervening space lacks significance.

A good example is a canal system, in which human-made elements are interconnected by natural components that are excluded from the National Register. Another example is where a portion of a historic district was separated from the rest of the district by intervening development or highway construction and the separated portion has sufficient significance and integrity on its own to meet the National Register criteria.

It is important to make careful, thoughtful judgments regarding boundaries, especially when including land outside the legal parcel within the historic property's boundaries. Boundaries must be defensible in terms of the intrinsic historical or architectural values they contain. The boundary description needs to provide a clear rationale, particularly when the boundary does not correspond to the current legal parcel, based upon historical significance and historic integrity.

7.9.4 Essential Physical Features

Essential physical features are those distinctive tangible elements and physical features that convey a property's historic appearance and that are indispensable to conveying its historic significance. Essential physical features (also referred to as contributing elements or character-defining features) are directly related to the criteria under which a property qualifies for the National Register of Historic Places. Identifying a property's essential physical features is critical in assessing its integrity for the evaluation, and in determining a project's effects on that property. If the various materials, features and spaces that give a property its visual character are not recognized and preserved, then essential aspects of its character may be damaged through project effects, mitigation, rehabilitation, and other activities.

Essential physical features may include such elements as materials, craftsmanship, construction details, overall shape and size, spatial relationships, and contributing setting. In general, only exterior, publicly accessible features of built-environment properties require consideration on a survey. For most Caltrans projects, the exterior essential physical features of buildings, structures, objects, sites and districts are the most critical because they are the features that are most likely to be affected.

There are situations, however, when Caltrans projects have the potential to affect interior features, such as maintenance activities and repairs to Caltrans-owned historic buildings, or when appropriate mitigation measures include interior work on affected historic buildings or structures. *Careful consideration needs to be given as to*

whether identifying interior character-defining features is necessary. Understanding what essential physical features a historic property possesses becomes critical in during the effects phase of the Section 106, CEQA and PRC 5024 processes, and guide the development of mitigation measures.

Character refers to the *visual* aspects and physical features that comprise the appearance of every historic built-environment resource. Essential physical features include overall shape and size of a resource, its materials, craftsmanship, decorative details, spatial relationships, various aspects of its site and environment, and, in limited circumstances, interior spaces and features.

When determining whether a property meets National Register criteria or is a historical resource under CEQA, discussion of these features in the evaluation tends to be generalized, a summary of the overall features the property possess that conveys its significance under the applicable eligibility criteria. If a historic property will be adversely affected, or the [*Secretary of the Interior's Standards for the Treatment of Historic Properties* \(SOIS\)](#) are used to achieve a finding of No Adverse Effect with Special Conditions, to develop mitigation measures, or to obtain a Categorical Exemption under CEQA, a more detailed and ranked list of specific character-defining features may be necessary. See [Exhibit 7.1: Ranking Character-Defining Features](#) for further guidance on describing and listing these features.

The discussion of essential physical features for individually eligible buildings, structures, objects and districts is fairly straightforward, as described previously. Contributing buildings and structures within historic districts, however, require more thought when considering effects and mitigation measures. If these contributing properties are not individually, eligible their features must be linked to the features of the historic district in which they are located and must convey the significance of the district.

With few exceptions, *interior features rarely convey the essential physical features of the district.* For each affected contributor, how it relates to the historic district's essential physical features, the integrity of the contributor itself, and its own essential physical features also would need to be summarized and noted.

7.9.5 Setting

A property's historic setting often is a factor in determining a project's indirect effects. "Setting," as defined by *National Register Bulletin 15* "is the physical

environment of a historic property.” See [National Register Bulletin 15](#) for more information.

For National Register evaluation purposes, buildings and structures are counted as contributing and noncontributing elements. Setting is not considered a “countable entity” in the same way one would tally the number of contributing buildings, structures or objects.

As noted in [Section 7.8.3](#), each of the seven aspects of integrity could be less or more important (a sliding scale) depending on why a property is eligible for the National Register. Setting is one component of integrity. For instance, integrity of location, setting, and association might be more important for a property that is significant because of an event (e.g., scientific discovery or signing of a treaty) that occurred at the property than integrity of design, workmanship and materials.

Open cropland and hills surrounding a farmstead set in a valley may be a visual part of the farmstead’s setting “whose expression extends beyond the boundaries of the property.” ([National Register Bulletin 38](#)) A concise description of the setting and its limits is critical information for those who must consider the impacts of a transportation project that may affect a historic property whose setting is important.

A discussion of setting and whether it is an aspect of integrity and/or an essential character-defining feature is necessary for completing a later step in the Section 106 process: assessing effects.

A greatly detailed discussion of setting generally is not required in National Register determinations of eligibility since integrity as a whole is what is important in the evaluation. However, there are cases in which setting is an important character-defining feature of a property, rather than just one aspect of integrity. Setting that conveys the significance of a historic property does not necessarily have to be confined within the historic property boundaries of the property; it can extend beyond them. In this instance, the setting is a contributing element and the researcher must define, as explicitly as possible, how those visual, auditory and atmospheric elements of setting are essential physical features for the historic property, and how the setting conveys significance.

7.10 Inventory Forms

To record and evaluate built-environment resources, Caltrans uses the Department of Parks and Recreation (DPR) 523 forms, as adapted by Caltrans to add County, Route, and Postmile information. For the built environment, inventory forms shall always include the DPR 523 Primary Record form *and* the DPR 523 BSO form. Other forms

may be used as appropriate, including the Continuation Record, Historic District Record, Linear Record (optional, but in addition to, not in place of, the BSO), Location Map, and Sketch Map. Electronic templates for use on Caltrans projects are available on the Caltrans Division of Environmental Analysis [CSO website](#).

7.10.1 Physical Descriptions

In preparing a property's physical description, focus on recording the essential physical elements (also called character-defining features) that would be important to the resource's significance, should the property be eligible: that is, the elements that define the resource's important historical, architectural, design, or engineering values (see [Section 7.9.4](#) and [Exhibit 7.1](#)) and would contribute to the property's integrity. To assist in the assessment of character-defining features (CDF), Caltrans has developed a historic district CDF Summary form, district contributor CDF Summary form and an individually eligible property CDF Summary form for use on Caltrans projects. They are available on the Caltrans Standard Environmental Reference Volume 2-Cultural Resources ([SERv2](#)) website under Templates.

For large numbers of homogeneous (by style or period) property types, such as residential housing tracts, a *single* form may be prepared with representative examples, describing those buildings' shared characteristics and any design modifications. Include photographs of typical examples and streetscapes. Each homogenous grouping receives a single Map Reference Number in the document and on the APE map (See [Section 7.10.4](#)).

7.10.2 Historic Districts

A potential historic district is recorded and evaluated on the appropriate DPR 523 forms, including the District Record. On the Primary Record, the physical description should provide an overall perspective on the character of the district and its components. The District Record should include a listing of all contributing and noncontributing elements, if the property is found eligible, and describe the specific qualities that give the district its significance, based on the historic context established in the HRER.

For a statement of significance, clearly state whether the property is significant under the National Register criteria, explain the reasons for the finding, assess the property's integrity, and conclude whether the property

Tip: When evaluation of housing tracts is warranted, it is not necessary to complete individual DPR 523 Primary Records and BSO forms for every single property within a large postwar housing tract. Complete one DPR 523 Primary Record, Location Map and District Record for the tract as a whole. Representative Primary Records would be completed for buildings with shared characteristics (such as for each model home plan).

is eligible or ineligible for inclusion in the National Register. Do not use boilerplate statements or simply repeat the property's history, but instead, present a cogent and compelling argument in support of the evaluation. Also address any likely objections, or any evidence contrary to the findings, in a direct, straightforward manner.

7.10.3 Primary Numbers

Primary numbers from the Regional Information Centers of the California Historical Resources Information System ([CHRIS](#)) are *not required* for submission of built-environment resources forms to SHPO for review. After completing review and accepting the survey findings, SHPO staff will send the data to the appropriate CHRIS Information Center. When the Information Center receives the HPSR and supporting documentation, it assigns primary numbers to the DPR 523 forms.

7.10.4 Map Reference Numbers

Assign a Map Reference Number to each evaluated resource. This number is used to cross-reference the Primary, BSO and other DPR records with the APE Map.

If possible, assign numbers in a sequence that is logical for the particular nature of the project. For example, because most Caltrans projects are linear in character it often is most useful to assign the map reference numbers in sequence from one end of the project to the other. Most often project plans designate a beginning point and ending point of the construction area, so it would be practical to start the map reference numbers at the beginning point and continue in sequence from there. This practice is particularly useful when large numbers of resources are involved. Another option is to assign map reference numbers to properties alpha-numerically by street and number for historic districts or large surveys.

If the resources are contained on a large number of map sheets, provide a map page key or indicate the map page depicting the resource on the Primary and BSO records.

The boundaries of each historic property must be depicted clearly on the BSO Record's Sketch Map or on an equivalent map attached to the District Record, as appropriate, *and* on the APE Map.

7.10.5 Photographs

Photographs either may be in color or black and white, and either as 35 mm prints or in high-resolution digital images. Regardless of format, it is essential that the images are clear and sharp and that they provide sufficient detail to enable a reviewer to confirm that they match the written description. Prints should be no smaller than 3½

by 5 inches. Scanned images on DPR 523 forms should approximate the 3½-by-5 inch size.

Photographic documentation must include the principal elevation (main façade) of each evaluated building, structure, or object. Photographs of secondary elevations (sides and back of a property) may be taken as needed to record alterations or distinctive features. When recording districts or complex properties, photograph the largest area possible, such as streetscapes or rows of structures, to document spatial relationships.

Having aerial photographs taken for a project area that previously has not been photographed is usually too expensive for most survey projects. However, under special circumstances this method might be justified for recording the spatial patterns of a large district or a complicated historic property. Satellite photographs or photographs taken from elevated vista points can also provide aerial views. There are a number of sources on the Internet that might be useful, such as [Terraserver](#), [Maps.Google](#), and others.

See [National Register Bulletin #23: How to Improve the Quality of Photographs for National Register Nominations](#) for more guidance.

7.11 The Historical Resources Evaluation Report (HRER)

The HRER documents the identification and evaluation of buildings, structures, objects, districts, cultural landscapes, all other built-environment resources, sites of historic events, and historical archaeological sites within the APE (see [Chapter 6](#)). Ideally, these resources all will be documented in a single HRER, but if studies are conducted at different times or by different entities, separate HRERs can be prepared as needed (see [Chapter 6 Section 6.10.3](#)).

Three previous Caltrans built-environment report formats—the Historic Architectural Survey Report, Historic Study Report, and Historical Resources Evaluation Report—are now combined in the HRER. [Exhibit 6.2: Historical Resources Evaluation Report \(HRER\) Format and Content Guide](#) describes the required format and content of the HRER.

7.11.1 Determinations of Eligibility in HRERs

For both federal undertakings and state-only projects, Caltrans uses the HRER and accompanying [DPR 523 forms](#) to document a property's National Register eligibility and to determine whether it is a historical resource under CEQA. For FHWA-assisted

projects, the determinations are consensus determinations: the Caltrans district makes the determination and SHPO concurs. Under the [106 PA](#), the Caltrans district makes these determinations, includes them in the HRER that is attached to the [HPSR](#), and forwards the documentation to SHPO, as explained in [Chapter 2](#). For state-only projects where Caltrans makes the determination whether cultural resources are historical resources under CEQA, the documentation is not forwarded to SHPO unless there are state-owned properties included in the HRER for which consultation under the PRC 5024 MOU is required (see [Chapter 2 Section 2.7](#) and for state-owned resources [Section 2.8](#) and the 5024 MOU itself, [Exhibit 1.2](#) of the SERv2).

Note that under the 106 PA and the 5024 MOU, when SHPO does not provide comments on eligibility findings within 30 days of receipt, Caltrans may proceed to the next step of the process upon notifying SHPO via email. However, this does not mean that Caltrans can “assume concurrence” with its determinations of eligibility.

In the absence of formal SHPO comments, there is no “consensus determination” on the eligibility of the evaluated properties, and therefore Caltrans’ findings are valid *for the purposes of that project only*. Caltrans must resubmit eligibility determinations to SHPO on any future project involving those properties.

In rare situations, such as when a disagreement on eligibility cannot be resolved in accordance with 106 PA [Stipulation VIII.C.5b](#), CSO will forward the HRER to the Keeper of the National Register to determine whether a property is eligible. When the Keeper makes a determination, it is called a formal determination of eligibility, as opposed to a consensus determination. Every attempt should be made to resolve eligibility through consensus negotiations without involving the Keeper, as the process is time-consuming and Keeper’s determination will be final. It also is important to remember that if the Keeper made the original determination of eligibility, any re-determination also must be submitted to the Keeper for reconsideration.

For state-only projects involving state-owned resources, follow the [5024 MOU Stipulation VIII.6.b](#) in which the SHPO’s determination is final. When Caltrans is the lead agency, however, the Caltrans determination is final for those resources that are not state-owned cultural resources.

7.11.2 Specialists Responsible for Preparing HRERs

Either architectural historians or historical archaeologists, or both working together, can prepare HRERs, depending on the nature of the resources involved. For projects that require an interdisciplinary approach, a team of qualified cultural resources

specialists jointly prepares the HRER. When there is a preponderance of resources that are non-archaeological in nature the team architectural historian is ultimately responsible for preparing the HRER, with input from the other team members.

For combined work, the citation and reference style shall be determined by the principal author and the preponderance of resources; e.g., if resources are primarily built environment resources and, therefore, the architectural historian is the principal author, the historical archaeologist's portion of a combined document should conform to the *Chicago Manual of Style*, as revised. However, if historical archaeologists and historians or architectural historians separately prepare two HRERs that then are merged, the HRERs do not need to conform to the same citation and reference style. [Chapter 4 Section 4.8.2](#) contains information about combined documentation, as well as [Chapter 6, Section 6.10.3](#).

7.11.3 Statement of Significance

The statement of significance in the Conclusions section of the HRER and in Section B10 of the BSO form should encapsulate the eligibility findings for the evaluated properties. It is sufficient to summarize this information in the HRER and to refer to the BSO forms for greater detail. *For state-owned resources, all evaluations must go to SHPO for review pursuant to the 5024 MOU [Stipulation VIII.C.6](#), even when the resource is found to be ineligible for the National Register or as a California Historical Landmark (CHL). See [Chapter 2 Section 2.8.3](#) for additional guidance.*

The significance statement must provide a clear and concise conclusion that states whether each evaluated property is eligible for inclusion in the National Register and also whether it is a historical resource under CEQA, based on criteria outlined in [PRC 5024.1](#). For both eligible and ineligible resources, the significance statement must explain how and why the significance criteria were or were not met, including an assessment of historic integrity.

A good statement of significance is critical to understanding the property's essential physical features and thus appropriately assessing project effects. Therefore, for eligible properties, the statement of significance must

- Explain which National Register criteria apply, why, and within what historic context;
- Provide the period(s) and level (local, state, and/or national) of significance;
- Identify the historic property boundaries;
- List all substantial contributing and non-contributing elements; and

- Address the property's integrity.

The Conclusions section must also identify any resources that are locally designated, identified as significant in a local survey, listed as a CHL, or listed as a California Point of Historical Interest. Properties that have been determined eligible for inclusion in the National Register or listed as a CHL from number #770 on are automatically listed in the California Register.

In addition, under CEQA, any resource that has been designated as a landmark under a local government ordinance, was found significant in a local historical resources survey, or is a CHL numbered from #1 through #770 will require consideration as to whether or not it is a historical resource for purposes of CEQA. If there is a preponderance of evidence that the resource does not meet the criteria outlined in PRC 5024.1, it will be determined that it is not a historical resource under CEQA.

Under state law, only the State Historical Resources Commission can make determinations of eligibility for the California Register. Caltrans is not permitted to make such determinations. Instead, Caltrans documents must state that a resource "is (or is not) a historical resource for the purposes of CEQA because it does (or does not) meet the criteria outlined in PRC 5024.1."

7.11.4 Reviews and Approval

Prior to the distribution of the built environment studies, reports and documents, there need to be *three* reviews:

- 1) District or CSO PQS must peer review the Caltrans staff- and consultant-prepared draft documents. The District or CSO staff who perform the peer review is someone other than the author(s) of the documents and who is certified at the appropriate PQS level(s) of Principal Investigator for historical archeology or Principal Architectural Historian for the built environment.
- 2) District PQS must review and *approve* the final document for the DEBC's signature.
- 3) DEBC must review, approve and sign the final document to certify that it is complete for compliance purposes. Only one DEBC approves and signs the final document.

See [Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents](#) [Table C](#) for additional information.

7.11.4.1 Peer Reviews

Peer reviews are part of the report preparation process. Peer reviewers may be identified in the acknowledgement section of the HRER or in a table of personnel working on the environmental studies. That is separate from PQS approval of final documents prior to the DEBC's signature certifying the document is complete. This is required under the 106 PA, under the 5024 MOU and as a matter of Caltrans policy.

Draft HRERs must be peer reviewed either by a Principal Architectural Historian or a Historical Archaeologist certified at the Principal Investigator level, depending on the nature of the resources under evaluation. Appropriately qualified PQS at the Principal level in any district or in CSO may conduct peer reviews. Upon DEBC request to the appropriate CSO Branch Chief, CSO has appropriately qualified staff who are available to conduct peer reviews for districts. (See [Chapter 1 Section 1.3.2](#) for a description of CSO Branch Chiefs' responsibilities.) CSO will complete such reviews within 15 working days or less of receipt of request. Preferably, the review would be completed in 10 working days or less.

Peer reviews are conducted to ensure that the:

- Document follows the format and content guidelines provided in [Exhibit 6.2](#).
- Project APE is depicted appropriately.
- Identification efforts are adequate.
- Eligibility determinations are logical and well supported.

7.11.4.2 Approvals

Following peer review (whether by district or CSO PQS), and any necessary revisions based on comments received, the Caltrans PQS report preparer(s) signs the title page of the final HRER. Consultants' names must appear on the final HRCRs they prepare and they have the option to sign the final report. The Caltrans-prepared or the consultant-prepared HRER must be reviewed and *approved* either by a Caltrans PQS certified as a Principal Architectural Historian or a Historical Archaeologist at the Principal Investigator level, depending on the nature of the resources under evaluation. If a Caltrans PQS at the appropriate Principal level has not prepared the document, then the responsible Caltrans PQS at the appropriate Principal level indicates review and *approval* by signing the title page. The DEBC finally reviews and formally approves the document by signing the title page. While more than one DEBC may approve the technical studies, such as an HRER, only one DEBC approves and signs the cover document, such as the HPSR, HRER or Finding(s) of Effect.

[Chapter 2, Section 2.5.5](#), further discusses Caltrans internal review guidelines; the process for resolving any disagreements or differences of opinion is outlined in Chapter 2, [Section 2.11](#).

7.11.5 Supplemental and Updated Studies

Supplemental HRERs are studies completed subsequent to SHPO review of an earlier HRER for the same project. A supplemental study is required when a project APE shifts or enlarges to include resources not previously studied. In accordance with the 106 PA, Caltrans PQS and the Project Manager jointly determine when project changes require modifying an APE, and the Caltrans PQS then makes the determination as to whether a supplemental study is necessary.

Supplemental reports either may be stand-alone documents, incorporating relevant data from the original study, or they can present the new material backed by the original study as an attachment. If the latter, the supplemental report should still briefly summarize information from the original document and reference the attachment for more details. It is highly unlikely that the SHPO is familiar with the earlier study or retains a copy of it at hand, so the submittal should include all necessary material, including dates of any previous findings and copies of relevant correspondence.

Additional background research may be necessary if a new APE contains resources with a different historical use or development. New information should be of the same nature and thoroughness as the original document and should follow the same format, if appropriate.

An updated study is a new version of the original study, a redo rather than an addition. An update might be necessary because of the passage of time. When five or more years have elapsed since the preparation of the original document, it should be examined to determine whether the findings still hold. The study is likely to require updating when resources in the APE have since reached 50 years of age, or when resource characteristics have changed (e.g., loss of integrity or restoration of original fabric). Changing perceptions of significance, reduction in the stock of comparable properties, new information, changes in cultural resources laws and regulations, or incomplete or erroneous prior evaluations may also indicate that an updated study is warranted.

7.12 Effects

Screened Undertakings

106 PA [Attachment 2](#): *Classes of Screened Undertakings*, and for state-owned historical resources [5024 MOU Attachment 2](#), identify undertakings, projects and activities that typically have no potential to affect historic properties and may be exempt from further review of consultation under the 106 PA or under the 5024 MOU. Additional Section 106 and/or PRC 5024 review will be required when the Caltrans PQS determines that the undertaking, project or activity has potential to affect other historic properties, as described in Attachment 2.

Historic Bridges and Tunnels Screened Undertakings

[Exhibit 7.3](#): *Historic Bridges and Tunnels Screened Undertakings and Activities* contains a list that clarifies the routine and maintenance activities specific to historic bridges and tunnels that qualify as screened undertakings under Attachment 2 for both federal undertakings and state-only projects and activities.

If the proposed routine or maintenance activity does not appear in Exhibit 7.3, it is not a “screenable” activity.

However, the activity might still result in a: Finding of No Historic Properties Affected; Finding of No Adverse Effect with Standard Conditions (FNAE-SC) either by establishing an Environmentally Sensitive Area (ESA), by using the *SOIS*; or Finding of No Adverse Effects without standard conditions (FNAE-No SC); see Sections [7.12.2](#), [7.12.3](#), and [7.12.4](#) below. For the equivalent language for these findings under PRC 5024 and consideration under CEQA, see [Section 7.12.1](#) below.

7.12.1 Assessment of Effects

If historic properties are identified in the APE, the project’s effects to these properties will need to be assessed. [Chapter 2](#) provides guidance on assessing effects and preparing the appropriate documentation.

The Finding of Effect document must address this question: Does the project adversely affect a contributing element within the boundaries of the historic property (building structure, site, object, or district)?

There are three possible outcomes:

- 1) *No Historic Properties Affected* (either there are no historic properties present, or there are no effects to historic properties that are, or may be, present) under

Section 106. The PRC 5024 equivalent is *No Historical Resources Affected* and the CEQA Consideration equivalent is *No Impact to Historical Resources*.

- 2) *No Adverse Effect* (either with or without standard conditions) under Section 106 and PRC 5024. The CEQA Consideration equivalent is *No Substantial Adverse Change*.
- 3) *Adverse Effect* under Section 106 and PRC 5024. The CEQA Consideration equivalent is *Substantial Adverse Change*.

7.12.2 No Historic Properties Affected

When there are historic properties within the project's APE but there are no effects to them, the finding is called "No Historic Properties Affected." It is necessary to keep in mind the reason why a historic property is significant, its period of significance, its essential physical features and its National Register boundaries when determining whether there is an effect. Refer to [Chapter 2 Section 2.3.7](#) for guidance on what constitutes an effect.

When it is determined that there *is* an effect to one or more historic properties within a project APE, finding of effect documentation is required to assess the project's effects on such properties. Because of their training and experience, architectural historians take the lead in assessing effects to built-environment historic properties; they also prepare the sections of the findings of effect that specifically discuss built-environment historic properties.

In order to determine whether there are adverse effects, it is necessary to review the:

- Criteria under which the historic property was listed or determined eligible.
- Level and period of significance.
- Essential physical features.
- National Register boundaries.
- Aspects of integrity that would be affected.

The National Register nomination or determination of eligibility documentation should contain this vital information. If the determination of eligibility was prepared for a Caltrans project, this information should be in the summary paragraph for the affected historic properties in the HRER and the HPSR

State-only Projects and Activities

For state-only projects, under CEQA, the conclusion is No Historical Resources Impacted and under the PRC 5024 MOU for state-owned historical resources the

finding is No Historical Resources Affected. (See [Exhibit 2.6](#), or for state-only projects and activities, include the historical status and the summary paragraph(s) for the affected historical resources in the HRER and the HRCR (See [Exhibit 2.14](#)). In addition, Caltrans uses Character-defining features forms and guidance to assist in determining effects and planning for appropriate rehabilitation, maintenance and mitigation measures. See [Exhibit 7.1: Ranking Character-Defining Features](#) for additional guidance. These components of the historic property's significance guide not only the finding of effect, but also the conditions for No Adverse Effect Findings and mitigation measures for Adverse Effect Findings. The architectural historian may need to conduct additional, but typically *minimal*, work, if the existing documentation does not contain this information, or the information is vague.

The finding-of-effect document types for federal undertakings, state-owned historical resources, and state-only projects are discussed in [Chapter 2](#), [Exhibits 2.8: Finding of No Adverse Effect](#) and [Exhibit 2.9: Finding of Adverse Effect](#), which contain the format and required content for these findings.

Determinations of eligibility, findings of effect and proposed mitigation measures may be combined in a single HRCR. However, when project timing is an issue or mitigation measures have not been developed, these steps may be documented sequentially in the HRCR and supplemental HRCRs.

7.12.3 No Adverse Effect with Standard Conditions

In accordance with the [106 PA Stipulation X.B.1](#), a finding of No Adverse Effect with Standard Conditions (FNAE-SC) may be appropriate in two situations⁶:

- 1) When the historic property can be protected through the establishment of an ESA;
or
- 2) When the federal undertaking itself or the undertaking's effects or activities include but are not limited to maintenance, repairs, rehabilitation, or alterations to historic properties in accordance with the *SOIS* ([36 CFR Part 68](#)), Preservation, Rehabilitation or Restoration Treatment Options.

⁶ For state-only projects and activities and for state-owned historical resources, in addition to the two situations mentioned here, there is a third situation outlined in [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#) that applies to the transfer of state-owned historical resources to Certified Local Governments. See Section [Chapter 2 Sections 2.8](#) and [2.9](#) for guidance under state laws and regulations.

Often it may be possible to avoid potential effects to built-environment historic properties and features from adjacent construction or repair through the establishment of an ESA, as outlined in 106 PA [Stipulation X.B.1.a](#), and [Attachment 5](#), and for state-owned historical resources 5024 MOU [Stipulation X.B.1.a](#) and [Attachment 5](#). Examples include fencing around entry pillars and retaining walls or monitoring noise and vibration. [Exhibit 2.7: Environmentally Sensitive Area Action Plan \(ESA\) Format and Content Guide](#) contains more detailed guidance on establishing ESAs and on this document that accompanies the FNAE-SC: ESA.

Similarly, it may be possible to avoid potential effects to historic properties through the use of the SOIS, as outlined in 106 PA [Stipulation X.B.1.b](#), and [Attachment 5](#), and for state-owned historical resources [5024 MOU Stipulation X.B.1.b](#) and [Attachment 5](#). Plans and specifications for any proposed maintenance, alteration, repair, or rehabilitation project or activity must be reviewed by PQS who meet the Caltrans Professional Qualifications Standards as Principal Architectural Historian as outlined in 106 PA/5024 MOU Attachment 1 and who has the training and experience to ensure that the standards are met. Districts lacking a Principal Architectural Historian PQS may submit a request for review or assistance either to the Section 106 Branch Chief or the BEPS Chief at CSO. See [Exhibit 7.5: Secretary of the Interior's Standards for the Treatment of Historic Properties \(SOIS\) Action Plan Format and Content Guide](#) for guidance on this plan that accompanies the FNAE-SC: SOIS.

Historic Bridges and Tunnels Finding of No Adverse Effect with Standard Conditions

[Exhibit 7.4: Historic Bridges and Tunnels No Adverse Effects with Standard Conditions](#) contains specific guidance for repairs and maintenance activities specific to historic bridges and tunnels that qualify as FNAE-SC-SOIS under 106 PA [Stipulation X.B.1.b](#) and [Attachment 5](#) for federal undertakings and for state-only projects and activities and those for state-owned historic bridges and tunnels, [5024 MOU Stipulation X.B.1.b](#) and [Attachment 5](#). The guidance is organized both by bridge or tunnel components and by construction materials and can be excerpted for use in documenting the finding and developing the SOIS Action Plan.

As outlined in the 5024 MOU [Stipulation X.B.1.c](#) and [Attachment 5](#), transferring state-owned historic bridges and tunnels to Certified Local Governments may be considered a FNAE-SC as well. See [Exhibit 2.17: Excess Property Transfers and Route Relinquishments](#) for additional guidance.

Finding of No Adverse Effect with Standard Conditions Documentation

When 106 PA [Stipulation X.B.1](#), or for state-owned historical resources 5024 MOU [Stipulation X.B.1](#), is applicable, Caltrans prepares a “Finding of No Adverse Effect with Standard Conditions,” (FNAE-SC) report as discussed in [Chapter 2, Section 2.3.9.2](#) for federal undertakings and [Section 2.8.6.1](#).

For the FNAE-SC-ESA report, include the measures to avoid potential effects and attach the ESA Action Plan; see [Exhibit 2.7](#). For FNAE-SC-SOIS report, include the applicable standard(s), an explanation as to how the proposed work meets the cited SOIS, and attach the SOIS Action Plan. For Caltrans and local agency projects the [Preservation Treatment](#) and Rehabilitation Treatment options are the most commonly used options. See [Exhibit 7.5](#) for guidance on preparing the SOIS Action Plan.

Detailed information on preparing the FNAE-SCs and processing them is contained in [Exhibit 2.8: Finding of No Adverse Effect Format and Content Guide](#).

State-only Projects and Activities

For state-only projects and activities, under CEQA, these 106 PA and 5024 MOU stipulations do not technically apply. But, use of ESAs and the SOIS as outlined in the stipulations may be used to demonstrate that there are no substantial adverse changes to historical resources under CEQA.

For state-only projects and activities, this information (FNAE-SC for state-owned historical resources under the PRC 5024 MOU and a no substantial adverse change determination under CEQA) is included in the HRCR under the appropriate sections as described in [Exhibit 2.14: Historical Resources Compliance Report Format and Content Guide](#), and the appropriate supporting documentation is attached to the HRCR. See [Chapter 2 Section 2.8.6.1](#) Finding of No Adverse Effect with Standard Conditions and [Section 2.9.2](#) HRCR Types of Findings for guidance on processing these findings.

7.12.4 No Adverse Effect without Standard Conditions

This finding applies to federal undertakings when either no conditions are imposed (there is an effect, but it does not rise to the level of being adverse), when conditions other than, or in addition to, one of the two Standard Conditions are imposed, or when the 106 PA does not apply (e.g., undertakings on tribal land).

These other-than-standard conditions may be used to support a finding of “No Adverse Effect without Standard Conditions,” (FNAE-No SC) as discussed in

[Chapter 2, Section 2.3.9.2](#) and [2.5.3.1](#). The justification for this finding should include a description of the affected historic property's essential physical features and aspects of integrity; specify how they would be affected, and explain why the proposed conditions would not ensure those qualities that make the property eligible for inclusion in the National Register would not be diminished. See [Exhibit 2.8](#) for more guidance on preparing this type of finding.

Similarly, these other-than-standard conditions may be used to support a FNAE-No SC for state-owned historical resources. See Chapter 2 [Section 2.8.6.2](#) No Adverse Effect without Standard Conditions and [Section 2.9.2](#) HRCR Types of Findings for guidance on processing these findings.

State-only Projects and Activities

For state-only projects under CEQA, however, the 106 PA and 5024 MOU stipulations regarding FNAE-No SC do not technically apply. Such measures may be used to demonstrate there is no substantial change to a historical resource under CEQA. See [Chapter 2 Section 2.76](#) Determination of Project Effects under CEQA.

7.12.5 Adverse Effect

Federal Undertakings

A federal undertaking is considered to have an adverse effect when any aspect of an undertaking meets one or more of the Criteria of Adverse Effect, when a consulting party disagrees with a No Adverse Effect finding, or when SHPO objects to a finding of No Adverse Effect without Standard Conditions.

As stated in the Section 106 regulations [[36 CFR 800.5\(a\)\(2\)](#)], examples of adverse effects⁷ include [*italics indicate explanatory information*]:

- (i) Physical destruction of or damage to all or part of the property [*such as demolishing a historic apartment complex that is center-line on a new alignment, or removal of stone entry pillars and elms that line the drive leading to a historic farm on a curve correction project*];
- (ii) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access, that is not consistent with the Secretary's Standards for the Treatment of

⁷ Caltrans uses these same criteria for assessing whether a project has the potential for substantial adverse change under CEQA and for considering adverse effects under the PRC 5024 MOU. See Section Chapter 2 Sections 2.8 and 2.9 for guidance under state laws and regulations.

- Historic Properties (36 CFR part 68) and applicable guidelines [*such as removing and replacing or raising original railings on a historic bridge, or removing a wooden sidewalk and balcony support posts to install a wheelchair accessible ramp and concrete sidewalk at the entry of an architecturally significant commercial building*];
- (iii) Removal of the property from its historic location [*such as relocating the home and studio of a historically important artisan to a new location because it is center-line on a new highway*];
 - (iv) Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance [*such as installing an elevated freeway immediately adjacent to a retreat significant as a meditation site, or converting an architecturally significant theater into multi-level offices*];
 - (v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features [*such as installing sound walls that block views of the ocean from an architecturally significant hotel, when the hotel was consciously designed and sited to take advantage of the ocean views; or widening a highway to within 20 feet of the entrance to a historically significant rural church, and thus increasing noise in a meditative or spiritual setting*];
 - (vi) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization [*such as "deferred" or no maintenance of an architecturally significant building*]; and
 - (vii) Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance. [*This effect normally does not apply to Caltrans projects; however there is a similar state law, PRC 5024, that applies to state-owned historical resources. See [Chapter 2, Section 2.6](#). The transfer of historic properties with covenants on Caltrans federal undertakings usually is part of other mitigation measures; for instance, when Caltrans has to acquire a historic house for a highway project, relocate it and transfer ownership to a private owner or local government. This type of transfer would be part of the mitigation measures for one or more of the above cited examples. Contact the Section 106 Branch Chief in CSO if there is a question whether Section 106 applies to properties acquired with federal funds and provision for their transfer are not included in mitigation measures.*]

The discussion of adverse effects should explain how and why an affected historic property is significant, identify its essential physical features, explain how the project

potentially affects the property, cite the appropriate Section 106 adverse effect criteria, and propose appropriate measures to mitigate the adverse effects. Adverse effects on the built environment either can be direct (e.g., demolition, alteration, take of land) or indirect (e.g., visual, audible, atmospheric). For more guidance see [Exhibit 2.9](#) and [2.14](#).

Under the 106 PA, the Caltrans district proposes the finding of Adverse Effect to CSO, and CSO consults with SHPO. After CSO, the SHPO, the Caltrans district, and any other consulting parties reach an agreement on the finding, they move on to resolving adverse effects. The purpose of this step is to reach agreement on measures that will avoid or reduce harm to historic properties, while enabling the undertaking to proceed.

State-only Projects and Activities

Under the 5024 MOU

As outlined in 5024 MOU [Stipulation IV.D](#) List of Adverse Effects, a project or activity is considered to have an adverse effect to a state-owned historical resource when the project or activity alters the original or significant historical features or fabric, transfers, relocates, or demolishes that resource. Caltrans uses the federal Criteria of Adverse Effect examples as a *guide* for these determinations, see above examples. The effect also is considered adverse when SHPO objects to a finding of No Adverse Effect without Standard Conditions. Caltrans does not “resolve adverse effects,” under the 5024 MOU, rather mitigation measures are proposed concurrent to preparing the FAE whenever possible.

- 1) Not on the Master List⁸: For state-owned historical resources not on the Master List, the Caltrans district submits the HRCR containing the proposed FAE and mitigation measures to CSO. CSO has 30 calendar days to review the FAE pursuant to 5024 MOU Stipulation X.C.2.a.
- 2) On the Master List: For state-owned historical resources on the Master List, the Caltrans district, the Caltrans district submits the HRCR containing the proposed FAE and mitigation measures to CSO pursuant to 5024 MOU Stipulation X.C.2.b. If CSO agrees, it forwards the HRCR containing the FAE and proposed

⁸ The Master List of Historical Resources (Master List) is a list of state-owned historical resources that are listed on or determined eligible for inclusion in the National Register of Historic Places or for registration as a California Historical Landmark. SHPO maintains this list; see 5024 MOU [Stipulation IV.E](#).

mitigation measures to SHPO. After CSO, the SHPO, the Caltrans district, and any other consulting parties reach an agreement on the finding, they move on to resolving adverse effects.

[Section 7.12.6](#) Mitigation Measures of this chapter contains an array of measures that may be helpful in avoiding or mitigating adverse effects. Also see Chapter 2 Sections [2.8.7](#) and [2.9.2.3](#), [Exhibit 2.14](#) and 5024 MOU [Stipulation X.C.2](#) for additional guidance on processing the FAE.

Under CEQA

Under CEQA, Caltrans uses the federal Criteria of Adverse Effect examples as a *guide* for determining whether there is a substantial adverse change to historical resources under CEQA, see above examples. [Section 7.12.6](#) Mitigation Measures of this chapter contains an array of measures that may be helpful in mitigating substantial adverse changes below the level of significant impact. Also see Chapter 2 Sections [2.7.6](#) and [2.9.2](#), and [Exhibit 2.14](#) for additional guidance on processing a finding of No Substantial Change to a historical resource under CEQA.

7.12.6 Mitigation Measures

Federal Undertakings

When adverse effects cannot be avoided, measures to mitigate those effects are stipulated in a Memorandum of Agreement (MOA). See [Chapter 2](#) for a description of the consultation process to resolve adverse effects and [Exhibit 2.10: Guidelines for \(MOA\) Memoranda of Agreements](#) for drafting MOAs, and the Advisory Council on Historic Preservation (ACHP) has a website, [Guidance on Section 106 Agreement Documents](#) includes basic information on drafting MOAs in addition to sample stipulations, a checklist for ensuring needed content is included in an MOA, and another checklist for staff reviewing draft MOAs.

There are standard mitigation measures that are often applied, but mitigation must *always* be commensurate to the scope of the undertaking, actual project effects, and the type and significance of the historic properties being affected. Development and review of such measures for buildings and other built-environment historic properties should be done by, or under the supervision of architectural historians who meet the PQS standards for Principal Architectural Historian.

[Section 7.12.7](#) Commonly Used Mitigation Measures contains a discussion of mitigation measures that traditionally have been used nationwide to mitigate adverse

effects. More recently, however, the ACHP and the California SHPO are encouraging creativity in developing innovative mitigation measures that are commensurate to the types of historic properties being adversely affected. The ACHP [Section 106 Success Stories](#) webpage contains examples of creative and innovative mitigation measures.

State-only Projects and Activities

State-only projects and activities do not use MOAs as the legal commitment for resolving substantial adverse change, and for state-owned historical resources, adverse effects. Depending on the type of project or activity the agreed-up mitigation measures could be in the Caltrans project environmental commitments, or could be documented in a Memorandum of Understanding or other legal agreement. As with federal undertakings, mitigation must *always* be commensurate to the scope of the project or activity, actual project or activity effects, and the type and significance of the historical resources being impacted. Also, staff who meet Principal Architectural Historian PQS standards must develop and review mitigation measures for buildings and other built-environment historical resources, or supervise other architectural historians who develop and review these measures.

The majority of the mitigation measures proposed for federal undertakings and described in [Section 7.12.7](#) likely would be appropriate for state-only projects and for state-owned historical resources for projects and activities of similar scope and impact. Creative and innovative measures not discussed below, but that would benefit the public, are encouraged.

Under the 5024 MOU

When state-owned historical resources are within the APE of a federal undertaking, PRC 5024 [Stipulation III](#) requires Caltrans to use the Section 106 PA for all the steps in the PRC 5024 process and SHPO is required to use the Section 106 documentation for reviewing and commenting under PRC 5024. In these cases, Caltrans just notifies SHPO that there are state-owned historical resources for which Caltrans is currently complying under PRC 5024 in the transmittal letter to SHPO and provides information in the relevant sections of the HPSR and Finding of Effect documents.

For state-only projects, [Stipulation X.C](#) of the 5024 MOU allows Caltrans to combine the assessment of adverse effects and proposed mitigation measures in the step review step. Proposed mitigation measures are briefly described in the Mitigation Plan section of the HRCR and more detailed information should be contained in the

attached documentation. The proposed finding of adverse effect is described in the HRCR to CSO:

- 1) Not on the Master List: If the historical resource is not on the Master List (e.g. National Register-eligible state-owned landscapes, tree rows, or historical sites), CSO reviews the proposed finding and mitigation measures pursuant to 5024 MOU [Stipulation X.C.2a](#). If CSO does not object within 30 calendar days of receipt, the project or activity is not subject to further review. Within that same time frame CSO may request to extend the time for review or object to the finding or the mitigation measures. If there still is a disagreement with the district, CSO must forward the documentation to SHPO for review pursuant to 5024 MOU [Stipulation X.F](#).
- 2) On the Master List: If the historical resource is on the Master List (e.g. National Register listed or eligible buildings, structures, objects, districts, sites and non-structural resources such as National Register listed tree rows, etc.), CSO reviews the documentation. Upon CSO's agreement with the finding, and pursuant to 5024 MOU [Stipulation X.C.2.b](#), CSO forwards the FAE and supporting documentation to the SHPO who has 30 days from receipt to review the FAE. If SHPO does not comment or request an extension of time within 30 days of receipt, the project is not subject to further review. However, if SHPO disagrees, then CSO and SHPO have only 30 days to resolve the disagreement, pursuant to 5024 MOU [Stipulation X.F](#). For historical resources on the Master List, if SHPO determines the disagreement cannot be resolved through consultation, under PRC [5024.5\(d\)](#) the SHPO is required to request the Office of Planning and Research (OPR) to mediate the disagreement. The OPR determination in the mediation is final and binding.

Also see Chapter 2 Sections [2.8.7](#) and [2.9.2.3](#), [Exhibit 2.14](#) and 5024 MOU [Stipulation X.C.2](#) for additional guidance on processing the FAE.

Under CEQA

When Caltrans is the lead agency under CEQA, it is required to find “potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.” [[PRC 15064.5\(b\) 4](#)] Caltrans mitigation measures typically parallel those for federal undertakings and for state-owned historical resources as described above. However, the documentation in the HRCR

does not need either CSO or SHPO review. Briefly describe how the substantial adverse change materially impairs the historical resource in the CEQA Considerations section of the HRCR and describe the mitigation measures and how Caltrans will ensure these adopted measures will be enforced in the Mitigation Plan section of the HRCR, referring to attached documentation for more detailed information. For additional guidance, refer to [Chapter 2](#) Sections [2.7.7: Determination of Appropriate Mitigation Under CEQA](#), [2.9.2.1: HRCR to District File](#), and [Exhibit 2.14](#).

7.12.7 Commonly Used Mitigation Measures

Commonly applied mitigation measures include relocation, rehabilitation, recordation, disposal with covenants, landscaping, screening, signage, and public interpretation. Development of other, creative mitigation measures is encouraged, but in all cases, measures must be reasonable, cost effective, and designed to address the actual effects of the project on historic properties. For example, relocation might be appropriate mitigation for a building that otherwise would be demolished, but not appropriate for the same building if the only project effects on it were indirect.

For buildings and structures other than bridges, such mitigation measures typically include:

- Adding visual screens or other features to lessen visual, audible or atmospheric impacts and that are compatible with the historic property(ies),
- Repositioning the building or structure and/or portions of its contributing elements within the parcel (such as moving entry pillars, fences, gates back on a large parcel when there is new right-of-way along the edge of a parcel),
- Relocating the building or structure and its contributing elements to a new site with historical covenants and conveyance of title to another party preceded by heritage documentation to Historic American Buildings Survey ([HABS](#)), Historic American Engineering Record ([HAER](#)) or Historic American Landscapes Survey ([HALS](#)) standards, collectively known as Heritage Documentation Programs ([HDP](#)) standards (see [Exhibit 7.6: Heritage Documentation for HABS/ HAER / HALS](#)); or
- **As a last resort**, demolition, with recordation to HDP standards.

Mitigation measures need to be consistent with the [SOIS](#), whenever feasible.

Depending on the type of mitigation measure, the appropriate standard can range from preservation to reconstruction. For instance, if the mitigation measure involves relocating a historic house, reconstruction may be the appropriate treatment option for installing landscaping, walkways, drives and fencing, while rehabilitation may be the

appropriate treatment option for repairing the house at its new location. If mitigation measures for working adjacent to a fragile Gold Rush-era stone warehouse include stabilizing the warehouse, the preservation treatment option may be the most appropriate. The discussion of mitigation measures should reference the applicable standards and describe how the proposed work meets those standards.

7.12.7.1 Relocation

Relocation can be an appropriate mitigation measure when

- A property would be demolished or otherwise suffer substantial adverse effects if left in place,
- When it possesses significance that is not dependent on its location, and
- When it can be moved to a compatible new site.

Individual buildings, structures, or contributing elements can be repositioned, reoriented, or moved back within the existing parcel to accommodate new right-of-way acquisition, or the historic property can be relocated in whole or in part to an entirely new site.

When relocation is determined to be an appropriate mitigation measure, the MOA/HRCR should include some or all of the following stipulations: acquisition of relocation site (the site specified if known, or site requirements identified); conditions of the sale or transfer of title; historical covenants; stipulations for the moving process; recordation prior to the move; standards for documentation of the property (whether to HDP or other standards); re-evaluation of the property in its new location; and distribution of reports.

For historic buildings, relocation shall be done in accordance with the Secretary of the Interior's publication, *Moving Historic Buildings*⁹ and the applicable treatment options in the *SOIS*, unless otherwise stipulated. For additional information or assistance, contact the BEPS Chief in CSO.

⁹ Curtis, John Obed. *Moving Historic Buildings*. Washington, DC: National Park Service, Heritage Conservation and Recreation Service, Technical Preservation Services Division, 1979. Reprinted in 1988 by the AASLH Press and in 1981 by W. Patram for the International Association of Structural Movers. This publication is out of print but is available through a number of libraries in California, including the California Historical Society, California State Library, Northern and Southern Regional Library Facilities, and the University of California campuses of Berkeley, Davis, Riverside, San Diego, Santa Barbara, and Santa Cruz.

7.12.7.2 Rehabilitation

The Secretary of the Interior defines rehabilitation as “the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.” Rehabilitation, which makes a property available for contemporary use (either original use or adaptive reuse) through carefully considered alterations or additions, is a desirable alternative to demolition, and it is appropriate to consider this option for the purpose of mitigation.

When rehabilitation is used as mitigation, the MOA/HRCR should stipulate that it would be done in accordance with the [Secretary of the Interior’s Standards for Rehabilitation Treatment option](#).

7.12.7.3 Recordation

For mitigation purposes, recordation is intended to document the existing condition of a historic property, to establish for posterity a record of the historic property prior to its alteration, relocation, or demolition. The level of mitigation documentation, which can range from minimal photo documentation to a formal and extremely detailed process, will be determined as part of the consultation process and it will be specified in a stipulation in the MOA/HRCR.

In specific circumstances, the National Park Service (NPS) Pacific Great Basin Support Office in the NPS Western Regional Office will determine the level of documentation for mitigation, as noted below; in other cases, the SHPO determines the level (should the SHPO withdraw from consultation during the resolution of adverse effects, the Council will then make that determination).

For National Historic Landmarks, properties listed or determined eligible at the national level of significance, and some specifically identified individual properties, NPS will stipulate the level of documentation. The highest level of recordation will be in accordance with HDP ([HABS](#), [HAER](#) or [HALS](#)) standards, as appropriate. Generally, documentation of a property to HDP standards will require black-and-white large-format photographs. *NPS has not yet approved Digital media as an appropriate archival standard for mitigation documentation.* See [Exhibit 7.6](#) for guidance on HDP documentation and procedures for reviewing, approving, and transmitting documentation to the appropriate agencies and repositories.

7.12.7.4 Landscaping and Screening

When a project may have indirect effects on historic properties, compatible visual screens or other features can be proposed as mitigation to lessen visual, audible, or atmospheric impacts. For example, landscaping can help screen a visual intrusion or compensate for removal of existing vegetation, while sound barriers may provide noise abatement. While the addition of sound barriers or other screening features can be a mitigation measure, their installation also may create potential adverse effects, such as a visual intrusion on the historic property being screened; they also would require consideration as additional potential project effects.

7.12.7.5 Signage

When a project's effects include reducing access to or visibility of, a historic property that is dependent on attracting travelers, such as a roadside business, the effect may be wholly or partially mitigated by installing new signs identifying the facility or redirecting the traveling public to it. The introduction of signage would need to be coordinated with the Division of Traffic Operations Office of Traffic Operations [Traffic Control Devices Branch](#).

7.12.7.6 Public Interpretation and Education

Public interpretation and education can be appropriate mitigation when it will be of benefit to the public, it is reasonable and cost effective, and it relates to the actual effects of the project on historic properties.

Not all properties will be equally amenable to interpretation as mitigation. For interpretation to be appropriate,

- The subject of the interpretation must be closely tied to the resource's values and the project's effect,
- The information to be conveyed would not be otherwise easily discernible or apparent to the public, and
- There is likely public interest in receiving that information.

Options for interpretation include use of electronic audio-visual media, "virtual" experience, brochures, booklets, museum exhibits, traveling exhibits, interpretive panels, roadside signs, audio-visual presentations, audio recordings, radio or television programs, live performances, and school programs. Other methods also should be explored as appropriate; creativity is especially valuable in identifying and producing products related to public interpretation. Consulting parties may have

innovative ideas and SHPO encourages innovative approaches to this aspect of mitigation.

7.12.7.7 Mitigation Measures Specific to Historic Bridges

The Transportation Research Board ([TRB](#)) and [FHWA](#) have developed additional programmatic mitigation measures and procedures that apply specifically to historic bridges.

Historic bridges are rated for functional adequacy by the same standards as new bridges, which often results in historic bridges being found deficient and therefore subject to replacement. As a result, specific programmatic mitigation options were developed for bridges. In accordance with the TRB's 1983 publication *NCHRP Synthesis 101: Historic Bridges – Criteria for Decision Making*, and its complimentary publication, TRB's 1999 *NCHRP Synthesis 275: Historic Highway Bridge Preservation Practices*,¹⁰ mitigation options for bridges include:

- 1) Rehabilitation to bring a bridge up to current standards.
- 2) Continued use for vehicular traffic on its existing site (perhaps as half of a couplet of bridges).
- 3) Continued use for non-vehicular traffic (pedestrian, bicycle, or equestrian use) on its existing site.
- 4) Continued use for vehicular or non-vehicular use on another site, preceded by recordation to HAER standards.
- 5) Retention in place exclusively for environmental mitigation purposes.
- 6) As a last resort, demolition, preceded by recordation to HAER standards.

The first two options listed above could permit the bridge to remain on the State Highway System when brought up to current bridge standard. The others would require that a new bridge be built to current standards. The historic bridge then would be demolished, retained off-system by Caltrans, or transferred to an appropriate party willing to assume title and liability and to abide by a preservation contract or historical covenant. A preservation contract is reimbursable with the Federal-aid funds, up to but not to exceed the applicable Federal-aid pro-rata share of demolition costs. However, if the FHWA Federal-aid pro-rata share of demolition costs is used to preserve the historic bridge, other FHWA funds cannot be used to match this

¹⁰ Available to Caltrans staff through the Caltrans Library and History Center

money. Likewise, the federal reimbursement cannot be used to set up a trust account for future maintenance of the historic bridge.

According to the Caltrans Legal Division, mitigation option 5 is a feasible alternative and constitutes a recognized highway purpose: “[Article XIX](#) of the State Constitution authorizes the Department to expend funds for the mitigation of the environmental effects of its activities. Consequently, the retention of property for mitigation effectively would remove it from qualified disposal requirements.”

A historic bridge may be bypassed by a new bridge and retained in place without having the historic bridge serve another use, or the historic bridge may be relocated to another compatible site. Removal of certain types of historic bridges could involve match-marking the structural members and dismantling the structure for storage and future use. If Federal Bridge Replacement funds are used to construct a new bridge, the old bridge will be removed from the State Highway System (its bridge number is changed to reflect this fact). According to the Highway Bridge Replacement and Rehabilitation Act regulations ([23 CFR 650.411\[c\]\[2\]](#)), “Whenever a deficient bridge is replaced or its deficiency alleviated by a new bridge under the bridge program, the deficient bridge shall be dismantled or demolished or its use limited to the type and volume of traffic the structure can safely service over its remaining life.” In addition, the old bridge would not be eligible for Federal Bridge Replacement funds thereafter.

Section 123(f) of the Surface Transportation Act of 1987 requires that MOAs for historic bridges contain a marketing plan for transferring title for bridges that otherwise would be demolished. Retention by Caltrans is a “last resort” option, which avoids Section 4(f).

The Programmatic Section 4(f) Evaluation and Approval for FHWA Projects that Necessitate the Use of [Historic Bridges](#) allows demolition of a historic bridge *only* if

- The bridge is not a National Historic Landmark;
- There is no prudent and feasible way to save the bridge; *and*
- CSO, the SHPO, and the Council have reached agreement on the project under Section 106.

Program Comment for Common Post-1945 Concrete and Steel Bridges

The ACHP issued a [Program Comment for Common Post-1945 Concrete and Steel Bridges](#) (Program Comment) at FHWA’s request in 2012 that would “...eliminate individual historic review requirements under Section 106 of the National Historic

Preservation Act for common post-1945 concrete and steel bridges and culverts. The intent of Program Comment is to ensure that more unique historic bridges receive the attention they deserve while the process is substantially streamlined for common, “cookie-cutter” bridges that are unlikely to be significant for preservation in place...” The Program Comment is not a waiver to complying with Section 106 but is a process for streamlining the process.

The Program Comment:

- Applies to specific types of bridges and culverts built after 1945, including various forms of reinforced concrete slab bridges, reinforced concrete beam and girder bridges, steel multi-beam bridges or multi-girder bridges, and culverts and reinforced concrete boxes (Section V).
- Does NOT apply to bridges that are already listed in or eligible for the National Register of Historic Places or to those located in or adjacent to a historic district (Section IV.A).
- Does NOT apply to arch bridges, truss bridges, bridges with movable spans, suspension bridges, cable-stayed bridges, or covered bridges (Section IV.B).
- Does NOT apply to bridges identified as having exceptional significance for association with a person or event, being a very early or particularly important example of its type in a State or the nation, having distinctive engineering or architectural features that depart from standard designs, or displaying other elements that were engineered to respond to a unique environmental context and included in a list to be developed by each state Division of FHWA (Section IV.C).

Because Caltrans has already inventoried these bridge and culvert types, including those built between 1946 and 1974 (the latter date in the 2015 Historic Bridge Inventory Update), and has in place the 106 PA that already streamlines the Section 106 process for these bridge types in a manner substantially similar to the Program Comment, Caltrans, acting on behalf of FHWA under its NEPA assignment, is not using the Program Comment for bridges in California.

Confidentiality of Historic Bridge Information

As a result of heightened security measures, as-built plans for many bridges, tunnels and highway structures are confidential documents and need to be treated as such.

Before including copies of as-builts, whether historic or current, in any reports or HDP or other recordation documents, please consult with the Division of Engineering

Services to determine whether the as-built for a particular highway structure has been classified as confidential. The Bridge Inspection Records Information System (BIRIS), available only to Caltrans staff on the Division of Engineering intranet site, is a quick go-to resource for determining whether bridge records are confidential.

7.12.7.8 Conservation Easements, Historical Covenants and Preservation Agreements

While transferring historic properties is rare as mitigation for a federal undertaking, it can occur. When it does, the mitigation should include a conservation easement, historical covenant or other preservation agreement. Transfer out of public ownership more commonly occurs as a state-only project or activity.

Disposal of a publicly owned historical resource and conveyance of title to another party generally is considered to have the potential for an adverse effect when the property goes *outside* the protections of state and federal laws governing the actions of public agencies. Disposal of the property to a private party with a historical covenant or conservation easement, or to a public entity with a conservation easement or preservation agreement, can be an appropriate measure to avoid or mitigate potential adverse effect.

Conservation easements are defined in California under the [Civil Code 815.1](#) as

“..any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.”

Conservation easement, therefore, can be considered an umbrella term for a number of different documents that legally bind an owner to preserve, in this case, the historical condition of a historical resource. Such documents include but are not limited to historical covenants, city resolutions, and relinquishment agreements, in addition to conservation easement as an instrument in and of itself.

Under Civil Code 815.3, only the following entities may hold conservation easements (including covenants, etc.), *emphasis added*:

- A *tax-exempt nonprofit organization* qualified under Internal Revenue Code Section 501(c)(3) and qualified to do business in this state which has as its primary purpose the preservation, protection, or enhancement of land in its natural, scenic, *historical*, agricultural, forested, or open-space condition or use.
- The *state or any city, county, city and county, district, or other state or local governmental entity*, if otherwise authorized to acquire and hold title to real property and if the conservation easement is voluntarily conveyed. No local governmental entity may condition the issuance of an entitlement for use on the applicant's granting of a conservation easement pursuant to this chapter.
- A *federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission* to protect a California Native American *prehistoric, archaeological, cultural, spiritual, or ceremonial place*, if the conservation easement is voluntarily conveyed. [Note: It is rare that a tribe would hold an easement or covenant for a historic building, structure or other non-Native American historical resource.]

Qualified Organizations for Holding Conservation Easements and Historical Covenants

The historical covenant, conservation easement, or other historic preservation agreement, ensures that a new owner will preserve the property's CDFs in accordance with the SOIS and allow the easement holder (also called an assignee or covenantee) to review proposed alterations and monitor the covenant. This transfer document also includes a list or description of the historical resource's CDFs that are to be protected by the new owner. Therefore, it is imperative that the organization or agency that Caltrans is seeking as a potential covenant or easement holder be a qualified agency or organization with a board of directors and staff, or consultants, with practical knowledge of the approaches in the SOIS, and that has the capability, in perpetuity, of carrying out responsibilities under the covenant. Because the holder of the covenant or easement will incur costs to carry out its responsibilities under that document, Caltrans should expect to pay a service fee or endowment. The fee or endowment can vary and is subject to negotiation between Caltrans and the candidate organization or agency.

Basic components in Conservation Easements and Historical Covenants

When Caltrans transfers its historical resources utilizing conservation easements and historical covenants, there are actually two documents that need to be recorded in the applicable county recorder's office:

- 1) The covenant itself, in Caltrans and the new (and future) owner(s) consent to preserve the historical resource according to the stipulations in that document.
- 2) The Assignment and Assumption Agreement (AAA), in which Caltrans delegates its historic preservation responsibilities to the organization that will be monitoring the covenant, according to the conditions in the agreement.

Terms commonly used in the documents sometimes can be confusing. In the covenant, once first identified by their proper names, Caltrans then is referred to as the DEPARTMENT/GRANTOR; the new owner is the GRANTEE; the historical resource is the PROPERTY; and the organization that has agreed to hold the covenant or easement and monitor it is referred to as the ASSIGNEE.

Similarly in the Assignment and Assumption Agreement, the document itself is referred to as the AAA, Caltrans is the DEPARTMENT/ASSIGNOR; the new owner is the GRANTEE; the property is the PROPERTY; and the organization that has agreed to hold the covenant or easement and monitor is the ASSIGNEE.

Those who sign the covenant or easement include:

- New owner(s)
- District Environmental Division Chief (or environmental staff legally delegated to sign for District Director)
- District Right-of-Way (ROW) Chief (or ROW staff legally delegated to sign for District Director)
- Caltrans District attorney (who approves the document as to form and procedure)
- Official with the organization that will become the covenant holder (Assignee), signs as acknowledging the covenant
- Notary(ies) Public (who need to notarize every signature on the covenant)

The same signatures are needed on the AAA, but the order is slightly different. On the AAA, Assignee is the first signature because the organization is taking on the

responsibilities of the AAA, and the new owners sign last as acknowledging the document).

There are standard legal stipulations that Caltrans Legal and Right-of-Way Divisions need to provide in addition to those that pertain to historic preservation. What follows below are historic preservation *paraphrased* whereas clauses and stipulations that are common to all enforceable conservation easement/historical covenant and AAA documents and that need to be included. [Exhibit 2.17](#) contains a sample historical covenant and AAA.

Covenant Whereas Clauses and Now Therefore Clause

- Acknowledgment that the new owner of the parcel also will become the owner of the historical resource that it is included in or determined to be eligible for inclusion on the National Register of Historic Places and is listed in the California Register of Historical Resources, along with the physical address of the property and its legal property description.
- Acknowledgement that the historic property possesses significant historical value and characteristics that are of great importance to new owner and to the people of county in which the property is located, and the people of the State of California.
- Acknowledgment that the new owner and Caltrans intend to preserve and protect the historical resource's historical values and CDFs in perpetuity.
- “Now, Therefore” clause: This clause states that the new owner: voluntarily enters into the covenant with Caltrans; the owner (and all future owners) assures Caltrans that the historical resource's historical values and CDFs will be preserved, protected, enhanced and retained; and that the new owner acknowledges the receipt and sufficiency of the fact that the new owner (and all future owners) will carry out the permission and restrictions contained in the stipulations that follow.

Covenant Stipulations

- The new owner and all succeeding owners maintain and preserve all the historical resource's CDFs. These architectural features may be listed and described in the stipulation or included as an attachment to the covenant. The list should clearly distinguish between the exterior features and the interior features to be protected. Most of the CDFs to be protected will be exterior features. There likely will be few or no interior CDFs for contributing properties to districts, but there may be more for individually

- listed or eligible properties. As a general rule of thumb features to be protected are the “Most significant” and “Significant” CDFs as outlined on the property’s CDF Summary Form that should have been prepared prior to submitting the HRCR to CSO’s review and, for state-owned historical resources on the Master List, SHPO’s review. See [Exhibit 7.1](#).
- New and future owners, in order to preserve and enhance those CDFs that make the property National Register eligible and California Register listed shall use the recommended approaches set forth in *The Secretary of the Interior’s Standards for the Treatment of Historic Properties*, found at 36 Code of Federal Regulations, Part 68 (and any amendments or modifications to them) to preserve and maintain the historical resource.
 - New and future owners shall not undertake any type of construction, alteration, remodeling, relocation or demolition of the property that would affect its CDFs without the express prior written permission by a “fully authorized representative” of Caltrans or the organization holding the covenant (the Assignee).
 - New and future owners shall permit Caltrans and/or its assignee, to inspect the property for the purpose of determining whether the obligations and duties set forth in the covenant are being observed: at time of sale or transfer, at time of any application for any building permit, or at any time Caltrans and/or its assignee chooses.
 - In the event of the covenant is violated, Caltrans or its Assignee will give prior notice (typically 30 days) to the new or future owners stating that in addition to any remedy provided by law, Caltrans or its Assignee, may initiate legal action or proceedings to enjoin the violation and require the remediation of any changes made to the features, spaces or spatial relationships characterizing the historic aspects of the historical resource.
 - The covenant shall run with the property and be binding upon Caltrans and its successor Assignee(s)—in case the organization originally agreeing to monitor the covenant cannot or will not continue that responsibility— and the new and future owners. Also, a statement needs to be included here that the new/future owners shall always include this covenant (either verbatim or by express reference) in any deed or other legal instrument “by which fee simple title or any other lesser estate in the Property or any part thereof is transferred or otherwise passes,” and that the new deed or other legal

instrument shall be recorded in the County Recorder's Office of the county in which the historical resource is located. This stipulation also includes a statement that if the new/future owners fail to comply with this provision, it does not "impair the validity of this covenant or limit its enforceability in any way." Any of the future owners in interest or assigns, by accepting a deed, lease or other document that conveys an interest in the historical resource are deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions and conditions of the covenant.

- Caltrans's or its Assignee's failure to exercise any right or remedy granted under the covenant "shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right of remedy at any other time."
- The new owner, for itself and on behalf of future owners agrees and acknowledges that neither Caltrans or its Assignee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Caltrans or its successors, under or in connection with their obligations, duties or responsibilities set forth in the covenant.
- Caltrans understands and acknowledges that, as set forth in the Assignment and Assumption Agreement (This is a document that always accompanies the Covenant), it has permanently assigned, transferred, and released all of its obligations, responsibilities, and any liabilities stipulated in the covenant to (Include the name of organization that will be the Assignee monitoring the covenant.), its successors and assigns. Also, add a statement that the Assignee has agreed to and will assume and perform, comply with and discharge, each and every obligation, covenant, representation, warranty, duty and liability of Caltrans.
- The covenant shall be recorded in the County Recorder's Office of the county in which the historical resource is located after all parties to the covenant have executed (signed) the document.
- If any of the provisions of the covenant are invalidated by judgment or court order, it does not affect any of the other provisions, which shall remain in full force and effect.
- When the new owners executes (signs) the covenant, it constitutes conclusive evidence that the new owner has read and understood the

- contents of the covenant and agrees to be bound by its provisions, conditions, restrictions, and assignment, and to perform the obligations as they are stipulated in the covenant.
- The new owner(s) acknowledge that as buyers of the property they also have entered into a Right to Purchase Agreement (RTPA), which is incorporated by reference, pursuant to Government Code 54235, etc. seq. The RTPA places certain additional restrictions on the use of the property including, but not limited to, the requirement that new owner obtains written approval from Caltrans prior to commencing any substantial repairs to the property. The new owner acknowledges and agrees that the provisions of both the RTPA and this Covenant apply to the property with regard to the CDFs. Also, in the event that the RTPA and the covenant conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the historical resource.
 - Definitions and examples for the following terms as set forth in 36 CFR 68.2 Definitions and National Register Bulletin 15 are included as a stipulation: “preserve, preserving, and/or preservation;” “rehabilitate, rehabilitating, and/or “rehabilitation;” and “integrity.” These are included as three sub-paragraphs for the: 1) preservation definitions; 2) rehabilitation definitions; and 3) integrity definition. See sample covenant in [Exhibit 2.17](#).

Assignment and Assumption Agreement Recitals (Whereas and Now Therefore Clauses)

- Acknowledgment that the new owner will become the owner of the historical resource that it is included in or determined to be eligible for inclusion on the National Register of Historic Places and is listed in the California Register of Historical Resources, along with the physical address of the property and its legal property description.
- Acknowledgment that the new owner and Caltrans are parties to a Historical Covenant and Notice of Restrictions Agreement (including the Agreement #XXXX and date it was signed) and is incorporated by reference and that the new owner has agreed to do or refrain from doing certain things to the historical resource in order to assure its preservation, protection, and enhancements of its CDFs. It also includes a statement that under the covenant, Caltrans as the covenant holder has taken on certain duties, rights and obligations relative to the historical resource.

- Acknowledgement that Caltrans has assigned all of its duties, rights and obligations under the covenant to its Assignee (the organization agreeing hold the covenant for Caltrans), and that the Assignee desires to assume these responsibilities under the covenant.
- Acknowledgement that Caltrans intends to pay a one-time service fee or endowment of the agreed upon dollar amount (this can vary) to the Assignee for the Assignee assuming in perpetuity all of Caltrans's duties, rights and obligations under the covenant.
- “NOW, THERFORE” clause: This clause states that in consideration of the foregoing recitals, which are specifically incorporated into this agreement [*typically by now its abbreviation, AAA is used*], and other good and valuable consideration, receipt of which Caltrans acknowledges and there ASSIGNEE agrees to carry out the stipulations that follow:

Assignment and Assumption Agreement Stipulations

- Caltrans assigns and delegates all of its obligations, responsibilities, and duties in and to the covenant to its assignee and the assignee assumes and agrees to perform and carry out all the obligations and other responsibilities of Caltrans under the covenant.
- As the buyers of the property the new owner [*who is named here*] have also entered into a Right to Purchase Agreement (RTPA) [including the date], which is incorporated by this reference, and places certain additional restrictions on the use of the property, including, but not limited to, the requirement that Buyer shall not add any substantial improvements to the property without Caltrans or its Assignee's the prior express written consent. The stipulation also states that the new owner acknowledges and agrees that the provisions of both the RTPA and the covenant apply to the property and that in the event that the RTPA and the covenant conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the property. The stipulation also states that Caltrans and its Assignee agree that Caltrans has retained all of the rights, duties and obligations described and set forth in that RTPA.
- There is a stipulation that reiterates that as a condition of the Assignee accepting the AAA and of its obligations, the Assignee, in perpetuity, will perform or observe all of the covenant's obligations. It also reiterates that Caltrans will pay the Assignee a one-time service fee of the agreed upon dollar amount (this

- amount can vary. While the earlier Whereas clause states Caltrans's *intention* to pay the fee, this stipulation *obligates* Caltrans to pay it).
- In the event that the Assignee is unable to satisfy its obligations, duties and responsibilities that the AAA and the covenant require, the Assignee will notify Caltrans in writing within a preset time frame (typically 30 calendar days) of its inability to satisfy the terms of the AAA and the covenant. The Assignee, with Caltrans's prior written approval, may then assign its interest in the AAA and covenant and transfer the remainder of the service fee and its accrued interest to its Assignee, along with all the Assignee conditions, obligations and duties that are in AAA and the covenant. The stipulation should include that Caltrans reserves the right to approve of the new Assignee and the current Assignee acknowledges this fact. Caltrans will give preference to a qualified agency or organization that has a board of directors, and staff or consultants with practical knowledge of the approaches in the *SOIS*.
 - Include a stipulation that neither Caltrans nor any of its officers or employees are responsible for any injury, damage or liability done or omitted to be done by the Assignee or future Assignees in connection with any work, authority or jurisdiction that were delegated to the current or future Assignee under the AAA. Also include a statement that Caltrans reserves the right to represent itself in any litigation in which Caltrans's interests are at stake.
 - Include a stipulation that the AAA shall be governed by and construed in accordance with the laws of the State of California. Time is of the essence of this AAA. This AAA shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. This AAA constitutes the entire agreement of the parties hereto on the matters covered. The invalidity or unenforceability of any provision(s) of this AAA shall not render any other provision(s) invalid or unenforceable.
 - Include a stipulation that the AAA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement.
 - Include a stipulation that the AAA shall be deemed effective upon the last of the dates that Caltrans and the Assignee sign, and provide that.

SHPO Review of Conservation Easements/Historical Covenants for Federal Undertakings

Transfers of state-owned historical resources are included in the list of actions that have the potential for adverse effect. See [Chapter 2 Section 2.8](#). This *state* obligation must be met even when the project is a *federal* undertaking, but as allowed in [Stipulation III](#) of the 5024 MOU, Caltrans uses the Section 106 process for transfers that are also measures to avoid or resolve adverse effect under Section 106. FHWA has determined that when federal funds initially were used to acquire state-owned parcels, the National Environmental Policy Act (NEPA) applies to those excess parcels under [23 CFR 771.117\(d\)\(6\)](#).

Allow enough time for *early* consultation with and review by SHPO.

Transfers of Caltrans-owned historical resources out of Caltrans ownership, whether to a private party or to a public entity, must be reviewed by SHPO under Section 106 if the transfer is identified as a mitigation measure in an MOA. For a transfer to a private party or local entity, Caltrans submits a draft version of the covenant, easement, resolution or transfer agreement to SHPO for review and consultation. When SHPO concurs with the content of the protective document(s) or language in the Finding of Adverse Effect or MOA, and the property has been transferred, Caltrans will submit a signed and recorded copy of the covenant/Assignment and Assumption Agreement, easement or officially accepted resolution to SHPO and request that SHPO change the ownership status accordingly. This is a record-keeping measure for SHPO in which the property is removed from the Master List of [state-owned] Historical Resources, but retains its underlying National Register, California Register and or State Historical Landmark listing/eligibility status.

For additional information on, or assistance with, historical covenants and preservation agreements, contact the BEPS Chief in CSO.

Review of Conservation Easements/Historical Covenants for PRC 5024 Compliance

Under the 5024 MOU transfers of Caltrans-owned historical resources out of Caltrans ownership take different paths to 5024 compliance depending on whether the historical resources is or is not on the Master List and to whom the historical resource will be transferred. For detailed guidance on how to process transfers and relinquishments out of state ownership, refer to Chapter 2 [Section 2.8.10](#) Excess

Parcel and Route Relinquishments, [Exhibit 2.17](#), and [5024 MOU Stipulations X and XVI](#).

7.12.8 Review of Mitigation Measures over \$500,000

As a result of concerns expressed by Caltrans Headquarters, Regional and District management, the California Transportation Commission, FHWA and regulatory agencies over the appropriateness of certain mitigation expenditures, Caltrans established a policy for internal independent peer review of all environmental mitigation commitments expected to exceed \$500,000 per project. This review is intended to confirm that the mitigation is cost effective and that it is commensurate to the scope of the undertaking and to the type and significance of the historic properties.

All proposed measures that identify potential mitigation costs of \$500,000 (and above) for the undertaking *as a whole* must be reviewed by the CSO Chief, under delegation by the Chief, Division of Environmental Analysis, per [memo of January 28, 2005](#).

Documentation should include:

- Basic project information
- Affected resources
- Project effects,
- Proposed mitigation
- Alternatives considered
- Likely costs
- Issues impacting mitigation decisions

The CSO Chief will complete the review within 15 working days from receipt of the mitigation documentation. The DEBC will take the CSO Chief's comments into consideration prior to approving mitigation expected to cost \$500,000 or more.

7.12.9 Construction Monitoring

Effective Monitoring

Despite Caltrans' efforts to ensure plans and specifications include instructions for contractors to follow that are consistent with the *SOIS*, sometimes actions occur that result in damage to or destruction of significant character-defining features and materials. A PQS who meets the criteria outlined in the 106 PA [Attachment 1](#), and for state-owned resources, 5024 MOU [Attachment 1](#), at the Principal Architectural

Historian level may be assigned to monitor construction work for the purpose of ensuring plans and specifications are followed in a manner consistent with the *SOIS* to avoid or minimize damage to character-defining features. *Monitoring is not a substitute for adequate pre-construction instructions and specifications.*

Effective monitoring requires that the Principal Architectural Historian monitor work closely with Caltrans' and the contractor's field personnel. All participants need to understand clearly:

- The nature of the historic built-environment concerns at the location.
- Various participants' responsibilities.
- Construction schedules and procedures.
- The chain of command for dealing with any damaged or destroyed character-defining features.

A monitoring plan should discuss chain of command and decision thresholds for what constitutes damage to built-environment historic properties.

Safety Concerns While Monitoring

Safety concerns are particularly important in construction situations. The Principal Architectural Historian monitor must be adequately aware of the operating methods of heavy equipment, adjacent traffic conditions, safety policy with respect to general construction practices and hazardous materials potentially present at the site. See [Chapter 4 Section 4.6.3.4](#) Field Safety and [Chapter 5 Section 5.3.6](#) for guidance on field safety.

If the monitor sees that the work is not being performed in a manner consistent with the *SOIS*, or that damage has occurred to character-defining features, it may be necessary temporarily to divert construction work away from the location, to allow the damage to be properly assessed. The monitor contacts the Resident Engineer (RE) and the RE will redirect any work.

Because delays may cause serious impacts to the construction schedule, the monitor should have a clear understanding of the thresholds for such damage.

Reporting Damage to Built Environment Historic Properties

Damage to historic properties may result in additional assessment and repair work that necessitates construction delays.

When damage occurs, the DEBC prepares a Report of Construction Impacts to Cultural Resources. The DEBC certifies this report and includes it in the project files. The DEBC sends copies of this report to Headquarters Division of Construction and to the CSO Chief. [Exhibit 5.13: Construction Impacts to Cultural Resources Report Format and Content Guide](#) contains guidance for completing the Report of Construction Impacts. Damage to historic properties must be reported to SHPO when they occur; they are also reported in the 106 PA and/or 5024 MOU Annual Report. Annual reports are discussed in [Chapter 2 Section 2.5.6](#).

7.13 State Laws and Regulations

CEQA and PRC 5024 are the primary state laws and regulations that apply to Caltrans projects. [Chapter 1](#) and [Exhibit 1.5: Historic Preservation Laws and Regulations Summary](#) explain the applicable state laws and regulations in further detail.

With few exceptions, compliance with CEQA and PRC 5024 follows the same procedures for level of effort, identification, evaluation, assessment of effects and developing mitigation measures as for federal undertakings.

If the project is a federal undertaking, the federal documents (HPSR, HRER, Finding of Effect, etc.) need to include a section on CEQA compliance and, if applicable PRC 5024. If the project is state-only, follow the procedures outlined in this chapter and report the findings, including identification, evaluation, assessment of effects, and mitigation measures in the HRCR. See [Exhibit 2.14](#) for reporting guidance.

7.13.1 CEQA

The California Environmental Quality Act (CEQA) ([PRC 21000 et seq.](#) and its implementing regulations CEQA Guidelines California Code of Regulations ([CCR 15064.5 et seq](#)) is intended to develop and maintain a high-quality environment now and in the future. CEQA requires California's public agencies to identify the significant environmental effects of their actions and to avoid or mitigate them, where feasible. CEQA applies to projects that will be undertaken by, or that require the approval of, state or local government agencies and that have the potential to have a physical impact on the environment. For state-only projects that include built environment resources within the PAL, use the guidance in this chapter.

7.13.1.1 Identification and Evaluation of cultural resources

Normally, the identification and evaluation efforts for historical resources under CEQA and PRC 5024 are the same as for historic properties under Section 106, but the HRER is attached to the HRCR, for state-only projects. However, SHPO does not need to be consulted on these efforts for CEQA purposes. Caltrans, as the lead agency, makes the determinations whether resources meet California Register criteria.

7.13.1.2 Assessment of Effects and Mitigation Plans

Normally, the impacts and the mitigation measures for historical resources under CEQA are the same as for historic properties under Section 106, though under CEQA adverse effects are called substantial adverse changes¹¹, and include locally designated landmarks and resources identified as significant in a local survey that meets SHPO standards, whether or not those resources meet National Register criteria. When a project is federally funded, assessment of impacts under CEQA is incorporated into the assessment of effects and mitigation measures contained in the Section 106 documentation. As under Section 106, impacts to historical resources must be assessed under CEQA, and if applicable, mitigated. Unlike the Section 106 process, a single document, the HRCR, can be used to document both the impacts and the mitigation measures for state-only projects.

The stipulations outlined in [106 PA Stipulation X.B.](#), “No Adverse Effect with Standard Conditions,” do not apply to state-only projects. See [Section 7.13.1.2](#) below.

7.13.1.3 Mitigation Measures

Mitigation measures for buildings and structures (including bridges) follow the same principles under state law as under federal law. Document the proposed measures in the Mitigation Plan section of the HRCR and include plans, specifications, and other relevant material as attachments. Consultation with SHPO on mitigation is not required under CEQA. See [Chapter 2](#) and [Exhibit 2.14](#) for more guidance.

As with federal undertakings, all proposed mitigation measures with costs of \$500,000 and above must be submitted to the CSO Chief for review and comment. See [Section 7.12.8](#), above.

¹¹ Caltrans uses the federal criteria of adverse effect [[36 CFR 800.5\(a\)\(1\) and \(2\)](#)] as guidance for assessing whether a project has the potential for substantial adverse change under CEQA and adverse effect under PRC 5024.

Measures to Mitigate to Below the Level of Significant Impact

The equivalent in CEQA to the Section 106 “No Adverse Effect with Standard Conditions” for rehabilitation of a historic property is a Class 31 Categorical Exemption (CEQA Guidelines at [PRC 15331](#)), which requires that the rehabilitation, maintenance, repair, restoration, or reconstruction of historical resources, including buildings, bridges, structures, and other built-environment resources, be done in a manner consistent with the [SOIS](#).

Likewise, under CEQA Guidelines at [PRC 15064.5\(b\)\(3\)](#), conformance to these [SOIS](#) is considered to mitigate substantial adverse changes to historical resources to below the level of significant impact. The proposed work also must comply with the [CHBC](#) (see [Section 7.14.4](#) below). Use of this code is a legal requirement for work on state-owned historical resources.

A Caltrans PQS Principal Historian must review plans and specifications for proposed rehabilitations, maintenance, repairs or mitigation measures that would mitigate to below a level of significant impact. The plans, specifications or other mitigation documentation must be attached to the HRCR. A district without appropriately qualified PQS can send review requests to the BEPS Chief in CSO.

7.13.2 Public Resources Code (PRC) 5024

Public Resources Code [5024](#) requires state agencies to preserve and maintain state-owned historical resources. State agencies must demonstrate that they are protecting and maintaining their prehistoric, historic, ethnographic, and traditional cultural resources, and that they are ensuring that their development or maintenance projects will not adversely impact those resources. State-owned historical resources may be on the Master List of Historical Resources (see below), depending on their National Register or CHL status and their property types. Whether or not they are on this list, all are protected by PRC 5024; but the process by which Caltrans complies with PRC 5024 is different. Caltrans and the SHPO have executed a Memorandum of Understanding, the 5024 MOU, for complying with this state law. See [Section 7.5.3](#), [Chapter 2 Section 2.8](#), and the [5024 MOU](#) for guidance on the appropriate procedures to follow regarding state-owned historical resources.

Caltrans projects that include maintenance, repair, rehabilitation, relocation, ownership transfer (including route relinquishments and excess parcel sales), or demolition of state-owned historic buildings or structures (such as historic roads, bridges, retaining walls, pumping stations, etc.) are all subject to compliance with PRC 5024.

Master List of Historical Resources

The Master List of Historical Resources (Master List), which is maintained by the Office of Historic Preservation (OHP), only includes State-owned historical resources that have been listed on the National Register or have been registered as CHLs (including National Register-listed and CHL-registered non-structural resources like archaeological sites, landscapes and tree rows), as well as buildings and structures¹² that have been determined eligible for inclusion in the National Register or as a CHL. This list is a “virtual” list in that there is no published list, but state-owned historical resources can be identified in the OHP database by the historical resource status code “4CM,” for Master List - State Owned Properties – PRC §5024.

The Master List does not include archaeological sites or non-structural resources and sites that were officially determined eligible for inclusion in the National Register or for registration as a CHL, nor does the Master List include any State-owned resources that are assumed eligible for the National Register or as a CHL only for purposes of a project or activity. See [5024 MOU Stipulation IV.E](#) for a more complete description.

State-owned historical resources that are not on the Master List are still subject to PRC 5024 and guidance for complying with PRC 5024 can be found in [Chapter 2 Section 2.8](#).

¹² Pursuant to PRC 5024(h), a structure is defined as an “immovable work constructed by man having interrelated parts in a definite pattern of organization and [is] used to shelter or promote a form of human activity and which constitutes an historical resource.”

7.14 Additional State Responsibilities for Historical Resources

7.14.1 PRC 5027

PRC [5027](#) prohibits the demolition, destruction or significant alteration (except for restoration to preserve or enhance its historical values) of any state-owned National Register-*listed* building or structure that is transferred to another public agency, without prior approval of the Legislature. In essence, the Legislature needs to change the law in order to allow this type of substantial adverse change to occur. Because the Legislature has to amend PRC 5027 to allow a substantial adverse change to this type of property *and* Caltrans must consult with SHPO early in the process, before the legislation is passed, allowing enough time for SHPO review is critical and needs to be synchronized with CEQA and PRC 5024 compliance. The key points to remember are

- National Register *listed* building or structure
- There is a *substantial adverse change*/adverse effect through demolition, destruction or significant alteration
- Transfer is to another *public agency*
- SHPO must be consulted prior to the passage of the proposed legislation and PRC 5024 compliance must be complete
- This kind of transfer may be either a *Negative Declaration or EIS*. Coordinate with the Caltrans district staff responsible for CEQA compliance.

The law does not apply to archaeological sites, landscapes or other non-structural property types. Very few Caltrans-owned historic buildings or structures are actually listed in the National Register; most are determined eligible.

7.14.2 Secretary of the Interior's Standards for the Treatment of Historic Properties

It is Caltrans policy to use the Secretary of the Interior's [Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings \(SOIS\)](#) for the repair, maintenance, stabilization, rehabilitation, or restoration of Caltrans-owned historic buildings and structures. This includes both federal and state-only projects and activities.

Under the 106 PA [Stipulation X.B.1.b](#), and for state-owned historical resources 5024 MOU [Stipulation X.B.1.b](#), rehabilitation that conforms to the *SOIS* may be used to document a finding of No Adverse Effect with Standard Conditions or to mitigate adverse effects on historic properties. Rehabilitation conforming to the *SOIS* can also

mitigate substantial adverse changes to historical resources under CEQA. Use of the *SOIS* in repair, maintenance, or rehabilitation of historical resources also constitutes a Categorical Exemption under CEQA as a [Class 31 project](#) when no other environmental issues are present; coordinate with Caltrans district staff responsible for CEQA compliance.

7.14.4 California Historical Building Code

The California Historical Building Code ([CHBC](#)), last updated in 2010, is the mandated alternative to other prevailing local and state codes “to preserve, encourage conservation and provide a cost effective approach to preservation of the resource and safety of users and occupants” for historical resources. The CHBC outlines state regulations that “control and allow alternatives to any prevailing codes when dealing with qualified historical buildings or sites.” It is designed to protect the character-defining features of buildings and structures, while also meeting the federal Americans with Disabilities Act (ADA) and its accompanying guidelines, as well as state ADA laws and regulations.

Under the CHBC state agencies are required to “apply the alternative building regulations pursuant to [Section 18959.5](#) [of the Health and Safety Code] in permitting repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, moving or continued use of an historical building or structure.”

The code’s use is mandatory, not optional, on state-owned historic buildings and structures, including roads and bridges. *Caltrans must therefore comply with the CHBC* in its maintenance programs; in repair, stabilization, and rehabilitation activities; and in projects that involve Caltrans-owned historic buildings and structures that meet the definition of a qualified historical building or property outlined in [Chapter 8-2](#) of the CHBC and [Section 18955](#) of the Health and Safety Code. That includes properties listed in or eligible for inclusion in the National Register or the California Register, designated as a State Historical Landmark or Point of Historical Interest, listed in city or county registers, and listed in inventories of historical or architecturally significant sites, places, historic districts, or landmarks.

Consultation with State Historical Building Safety Board

Consultation with the Executive Director of the [State Historical Building Safety Board](#) is required when use of prevailing codes and standards could result in an adverse effect to a state-owned historical resource. Consultation should occur early in the planning process to determine whether components of the project can take advantage of this alternative code.

CHBC and the California Building Energy Efficiency Standards

Qualified historical buildings, as defined in the CHBC, **are exempt** from the [California Building Energy Efficiency Standards](#), as revised.

This exemption includes historic lighting components or replicas of historic lighting components. However, all other light systems in historical buildings must comply with the energy efficiency standards for lighting power allowances. Under the CHBC, all non-historical additions must comply with regular code. New or replacement mechanical, plumbing and electrical equipment and appliances *should* comply with the Building Energy Efficiency Standards.

The BEPS Chief in CSO is the Caltrans contact person regarding the CHBC.

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

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ATTACHMENTS:

1. Caltrans Professionally Qualified Staff Standards
2. Screened Undertakings
3. Area of Potential Effects Delineation
4. Properties Exempt from Evaluation
5. Findings of No Adverse Effect with Standard Conditions
6. Standard Treatment of Archaeological Sites: Data Recovery Plan
7. Local Bridge Seismic Safety Retrofit Program

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY PROGRAM IN CALIFORNIA

WHEREAS, the Federal Highway Administration (FHWA), under the authority of 23 USC § 101, implements the Federal-aid Highway Program (Program) in the state of California by funding approved state and locally-sponsored transportation projects (Local Assistance) that are administered by the California Department of Transportation (Caltrans); and

WHEREAS, Title 23 United States Code Section 327 (23 USC § 327) allows the United States Department of Transportation (USDOT) Secretary, acting through FHWA, to assign responsibilities for compliance with the National Environmental Policy Act of 1969 (NEPA) and other federal environmental laws to a State Department of Transportation through a memorandum of understanding; and

WHEREAS, Title 23 United States Code Section 326 (23 USC § 326) allows the USDOT Secretary, acting through FHWA, to assign responsibilities for Categorical Exclusion (CE) determinations to a State Department of Transportation through a memorandum of understanding; and

WHEREAS, Caltrans and FHWA, entered into a NEPA Assignment Memorandum of Understanding and a CE Assignment Memorandum of Understanding (collectively MOUs) concerning the State of California's participation in the Program in which FHWA assigned and Caltrans assumed FHWA's responsibilities under NEPA and Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) and associated implementing regulations at 36 CFR Part 800; and

WHEREAS, pursuant to the MOUs, Caltrans is deemed to be a federal agency for all Federal-aid Highway projects it has assumed, and in that capacity Caltrans assigned the role of "agency official" to the Caltrans Division of Environmental Analysis (DEA) Chief for the purpose of compliance with 36 CFR Part 800, and to provide for effective compliance, the DEA Chief delegated day-to-day responsibilities to the Cultural Studies Office (CSO) Chief; and

WHEREAS, FHWA California Division Administrator retains responsibility for environmental review, consultation and decision-making for specific undertakings identified in the MOUs and therefore shall be the "agency official" for those specific undertakings; and

WHEREAS, the United States Army Corps of Engineers' (Corps) Sacramento, San Francisco, and Los Angeles Districts (collectively Corps Districts) may also have Section 106 of the NHPA responsibilities since it administers a permit program under the authority of Section 10 of the Rivers and Harbors Act of 1899, as amended (33 USC § 403), and Section 404 of the Clean Water Act of 1972 as amended (33 USC § 1344) (DA Permits) to which Federal-aid Highway projects in California may be subject and therefore has participated in this consultation and is an invited signatory to this Programmatic Agreement (Agreement); and

WHEREAS, FHWA and the Corps, as federal agencies, have a unique legal relationship with Indian tribes as set forth in the Constitution of the United States, treaties, statutes, executive orders, and court decisions, and while an Indian tribe may agree to work directly with Caltrans as part of the 36 CFR Part 800 compliance process, the FHWA and the Corps Districts remain legally responsible for government-to-government consultation with Indian tribes; and

WHEREAS, Caltrans, FHWA, and the Corps Districts have determined that implementation of the Program in California, including issuance of DA Permits for a Program undertaking, may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), hereafter referred to as historic properties, and have consulted with the California State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR § 800.14(b); and

WHEREAS, pursuant to the consultation conducted under 36 CFR § 800.14(b), the signatories (defined below) developed this Agreement in order to establish an efficient and effective program alternative for taking into account the effects of the Program on historic properties in California and for affording the ACHP a reasonable opportunity to comment on undertakings covered by this Agreement; and

WHEREAS, FHWA and Caltrans notified 114 federally recognized Indian tribes with ancestral lands in California through mail about this proposed amended Agreement, requested their comments, and took any comments received into account; and

WHEREAS, Caltrans also notified 131 non-federally recognized tribes, groups and individuals, 264 individuals on the California Native American Heritage Commission contact list, and 26 Tribal Historic Preservation Officers, requested their comments, and took any comments received into account; and

WHEREAS, Caltrans also notified 64 Certified Local Governments, 68 historic preservation organizations, Federal agencies with jurisdiction over lands in California, and members of the California State Association of Counties, and invited their comments on the proposed amended Agreement and took any comments received into account; and

WHEREAS, the *Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and California Department of Transportation regarding compliance with Section 106 of the National Historic Preservation Act as it pertains to the administration of the Federal-aid Highway Program in California* (2004) is superseded by this Agreement; and

WHEREAS, the *Programmatic Agreement regarding the Seismic Retrofit of Bridge Structures in California* among the FHWA, ACHP, SHPO and Caltrans executed in 1995 is superseded by this Agreement;

NOW, THEREFORE, FHWA, the SHPO, the ACHP, and Caltrans (collectively signatories) agree that the Program shall be carried out in accordance with the following stipulations in order to take into account the effects of the Program on historic properties in California and that these stipulations shall govern compliance of the Program with Section 106 of the NHPA until this Agreement expires or is terminated.

STIPULATIONS

Caltrans, either as assigned by FHWA under the MOUs or under FHWA's authority through this Agreement, shall ensure that the following stipulations are carried out. Where FHWA's responsibilities have not been assigned to and assumed by Caltrans, FHWA, in coordination with Caltrans, shall ensure that the following stipulations are carried out.

I. APPLICABILITY

A. This Agreement shall apply to all federal undertakings administered under the Program in California for which FHWA or Caltrans is the lead federal agency, including Federal-aid emergency relief projects, defined in 23 CFR Part 668 subpart A, and any DA Permits-associated with such Program undertakings.

B. The Agreement shall not apply to undertakings that occur on or affect tribal lands as defined in 36 CFR § 800.16(x) and FHWA and Caltrans shall follow the procedures in 36 CFR Part 800, unless an Indian tribe elects to become a party to this Agreement in accordance with Stipulation I.E.

C. Except as specified in the recitals above, this Agreement does not negate or supersede any agreements between FHWA or Caltrans and Indian tribes in effect at the time the Agreement is executed, nor does it negate or supersede any agreement documents executed between or among FHWA, the SHPO, the ACHP, the Corps Districts, or Caltrans pursuant to 36 CFR Part 800.

D. Other federal agencies may issue permits and otherwise provide assistance for undertakings covered by this Agreement, including those involving federal land, and in such circumstances, Caltrans, or FHWA as appropriate, as lead federal agency may request that such agencies fulfill their NHPA Section 106 responsibilities in coordination with Caltrans or FHWA by using applicable provisions of this Agreement. Such federal agencies may designate Caltrans, or FHWA as appropriate, as lead federal agency pursuant to 36 CFR § 800.2(a)(2) to fulfill their responsibilities. Other federal agencies participating in Caltrans undertakings that have not designated Caltrans or FHWA as the lead federal agency may use studies and background documentation developed by Caltrans to support their own findings and determinations under 36 CFR Part 800.

E. Should other federal agencies or Indian tribes not already party to this Agreement request in writing to participate, Caltrans will notify the signatories and invited signatories and consider the request to participate. Should the signatories agree to the request, the Agreement shall be amended following the procedures in stipulation XX.D.

F. For any Program undertaking in California that involves the need for a DA Permit(s), the Corps Districts programmatically designate FHWA as lead federal agency for compliance with Section 106 of the NHPA. This designation does not apply to Program undertakings on Federal land managed by the Corps or that would alter or modify a completed Corps project pursuant to 33 USC § 408. Pursuant to its authority under 23 USC § 326 and 23 USC § 327, Caltrans is deemed to be the federal agency and, by this Agreement, the lead agency for Federal-aid Highway projects. Caltrans will provide summary notification of compliance with this Agreement to the Corps District when applying for a DA Permit. If, for any undertaking, the Corps District should become the lead federal agency under Section 106 of the NHPA in accordance with Stipulation XX.D, the Corps District shall be responsible for compliance with

Section 106 of the NHPA for the permit area within their scope of analysis. To the extent that the Corps District deems applicable, the Corps District may use studies, findings, and determinations previously completed by Caltrans to document its own findings.

II. DEFINITIONS

For purposes of this Agreement, the definitions provided in 36 CFR § 800.16(a) through (y) inclusive shall apply.

III. PROFESSIONAL QUALIFICATION STANDARDS

All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, 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 Agreement. Hereinafter, such Caltrans staff shall be referred to as Professionally Qualified Staff (PQS). However, nothing in this stipulation may be interpreted to preclude FHWA or 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.

IV. CONSULTATION WITH INDIAN TRIBES

A. FHWA, Caltrans, the Corps, SHPO, and ACHP recognize the unique knowledge and expertise Indian tribes may possess regarding their ancestral lands and will consider that knowledge in making determinations and findings.

B. FHWA shall retain responsibility for government-to-government consultation with Indian tribes for Program undertakings. FHWA and the Corps Districts shall retain responsibility for government-to-government consultation with Indian tribes for DA Permit applications for Program undertakings. Caltrans recognizes the government-to-government relationship between the federal government and Indian tribes and shall conduct 36 CFR Part 800 consultations in a sensitive manner respectful of tribal sovereignty.

C. In accordance with 36 CFR § 800.2(c)(2)(ii)(E), FHWA and Caltrans may enter into agreements with Indian tribes that specify how they will carry out their responsibilities with regard to tribal participation in 36 CFR Part 800 review.

D. Notwithstanding any other provision of this stipulation, FHWA, and the Corps Districts shall honor the request of any Indian tribe at any time in the 36 CFR Part 800 process for government-to-government consultation regarding an undertaking covered by this Agreement. If a tribal request for government-to-government consultation with the federal government comes to Caltrans, Caltrans shall immediately inform FHWA, or the Corps District as applicable. If any Indian tribe requests government-to-government consultation with FHWA, or the Corps District, FHWA and the applicable Corps District shall conduct the government-to-government consultation, and, if the Indian tribe agrees, involve Caltrans in that consultation process. Caltrans, however, shall continue to carry out the remainder of responsibilities under this Agreement that are not the subject of government-to-government consultation.

E. To provide for an effective and efficient consultation process, when Caltrans is deemed to be a federal agency pursuant to 23 USC § 326 and 23 USC § 327, Caltrans shall conduct 36 CFR Part 800 consultation with Indian tribes for undertakings covered by this Agreement and shall assist FHWA, and the Corps District as applicable, in project specific government-to-government consultation, if an Indian tribe does not object. Each Caltrans District Director, and when Caltrans deems it appropriate, the Caltrans Director, shall be responsible for ensuring that any Caltrans consultation with Indian tribes complies with this stipulation.

1. In accordance with 36 CFR § 800.2(c), Caltrans Districts shall consult with the representatives designated or identified by the tribal government and shall commence consultation early in the project planning process in order to identify and discuss relevant preservation issues, resolve concerns about the confidentiality of information on historic properties, and allow adequate time for consideration of such concerns.
2. Caltrans Districts have the responsibility to ensure that consultation continues with Indian tribes throughout the 36 CFR Part 800 process prescribed by this Agreement whenever such Indian tribes express a concern about an undertaking or about historic properties that may be affected by an undertaking.
3. If FHWA determines that any project-specific tribal issues or concerns will not be satisfactorily resolved by Caltrans when Caltrans is deemed to be a federal agency, then FHWA may reassume all or part of the federal responsibilities for environmental review pursuant to the MOUs.
4. Nothing shall limit the ability of Indian tribes to consult directly with parties to this Agreement when they have a concern about an undertaking or about historic properties that may be affected by an undertaking, including properties to which they might ascribe religious or cultural significance.

V. PARTICIPATION OF OTHER CONSULTING PARTIES AND THE PUBLIC

A. Consulting Parties

Consulting parties shall be identified pursuant to, and their participation in undertakings covered under this Agreement shall be governed by 36 CFR §§ 800.2(c)(5) and 800.3(f).

B. Public Involvement

Public involvement in planning and implementation of undertakings covered by this Agreement shall be governed by FHWA's and Caltrans' environmental compliance procedures, as set forth in the Caltrans Standard Environmental Reference (SER) Environmental Handbook, Caltrans Project Development Procedures Manual, FHWA's technical advisories, ACHP guidance, and similar and subsequent guidance documents. Public involvement and the release of information shall be consistent with 36 CFR §§ 800.2(d)(1-2), 800.3(e), and 800.11(c)(1 and 3), 5 USC § 552 as amended (Freedom of Information Act), section 304 of NHPA (16 USC § 470w-3(a), and California Government Code section 6254(r).

VI. DELEGATION OF FHWA AND CALTRANS ACTIONS UNDER THIS AGREEMENT

A. Responsibility

Consistent with the requirements of 36 CFR §§ 800.2(a) and 800.2(c)(4), Caltrans when deemed to be a federal agency, and FHWA where Caltrans has not assumed responsibility for environmental review and compliance, remains legally responsible for ensuring that the terms of this Agreement are carried out and for all findings and determinations made pursuant to this Agreement.

B. Actions under 36 CFR §§ 800.3 through 800.5

Caltrans Districts shall carry out the following steps with respect to undertakings covered by this Agreement. 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 whether its proposed federal action is an undertaking as defined in 36 CFR § 800.16(y).
2. Determine under 36 CFR § 800.2(a)(2) whether another federal agency is involved in the undertaking and establish lead agency.
3. Determine under 36 CFR § 800.3(a) whether the undertaking is a type of activity that has the potential to affect historic properties.
4. Determine under 36 CFR § 800.3(c) and (d) whether the undertaking may occur on or has the potential to affect historic properties on tribal lands as defined in 36 CFR § 800.16(x).
5. Solicit public comment and involvement, as described in 36 CFR §§ 800.2(d), 800.3(e), and subject to confidentiality requirements of § 800.11(c).
6. Identify additional consulting parties, including Indian tribes, as described in 36 CFR § 800.3(f), and invite them to participate in the process covered by this Agreement.
7. Request, as appropriate, expedited consultation as described in 36 CFR § 800.3(g).
8. Determine under 36 CFR § 800.4 the undertaking's Area of Potential Effects (APE), identify and evaluate properties within the APE in order to determine their eligibility for the NRHP, and determine whether historic properties may be affected by the undertaking.
9. Apply the Criteria of Adverse Effect as described in 36 CFR § 800.5 and propose "No Adverse Effect with Standard Conditions" findings where imposing the standard conditions set forth in Stipulation X.B.1 will avoid adverse effects.

C. Actions under 36 CFR §§ 800.5(b) and 800.6

1. When a Caltrans District proposes a finding of "No Adverse Effect without conditions" or a finding of "No Adverse Effect with conditions other than the Standard Conditions" set forth in Stipulation X.B.1, Caltrans shall proceed in accordance with Stipulation X.B.2.
2. When a Caltrans District proposes a finding of "Adverse Effect," Caltrans shall proceed in accordance with Stipulation X.C.

VII. SCREENED UNDERTAKINGS EXEMPT FROM FURTHER REVIEW

In consultation with the other signatories to this Agreement, FHWA and Caltrans have identified classes of undertakings that will be addressed in accordance with Attachment 2 to this Agreement. The undertakings classified in Attachment 2 as Screened Undertakings will require no further review under this Agreement when the requirements of Attachment 2 have been satisfactorily completed and it is determined that no feature of the undertaking necessitates further review pursuant to this Agreement.

VIII. IDENTIFICATION AND EVALUATION OF POTENTIAL HISTORIC PROPERTIES

A. APE

Caltrans PQS shall determine and document the APE for undertakings covered by this Agreement in accordance with Attachment 3 to this Agreement. Nothing in this paragraph or in Attachment 3 shall preclude Caltrans from consulting with the SHPO, Indian tribes, or the applicable Corps District on determining and documenting an APE. Caltrans may establish a study area for use in conducting identification activities until an APE can formally be delineated.

B. Identification

Caltrans shall identify historic properties that may be located within an undertaking's APE in accordance with 36 CFR §§ 800.4(a)(2-4) and 800.4(b). Identification of historic properties should be consistent with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR page 44716), the guidance in the SER Volume 2, SHPO guidance, FHWA guidance, ACHP guidance, and any other guidance, methodologies, agreements, or protocols that the signatories agree should be used to identify historic properties. Nothing in this paragraph precludes seeking consistency with any other pertinent guidance such as that provided by Indian tribes or other federal agencies. Caltrans Districts shall make a reasonable and good faith effort to identify and consult with any affected Indian tribes to assist in identifying properties to which they may attach religious and cultural significance that may be located within an undertaking's APE or study area.

C. Evaluation

1. Properties Exempt from Evaluation: Attachment 4 to this Agreement lists the properties 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. All other identified properties shall be evaluated in accordance with Stipulation VIII.C.2.
2. Evaluating Identified Properties: Caltrans shall evaluate the historic significance of identified properties in accordance with 36 CFR § 800.4(c)(1) following the guidance in the SER Volume 2, SHPO guidance, National Register Bulletins, FHWA guidance, or any other guidance, methodologies, agreements, or protocols that the signatories agree may be used to determine whether identified properties are historic properties. During the evaluation process, Caltrans Districts shall make a reasonable and good faith effort to identify and consult with any Indian tribe on the evaluation of any identified property to which they attach religious and cultural significance, or other interested party.

3. **Special Consideration for Certain Archaeological Properties:** If archaeological properties within an undertaking's APE are protected from any potential effects by establishment and effective enforcement of an Environmentally Sensitive Area (ESA), as described in Attachment 5 to this Agreement, the signatories agree that Caltrans may consider such properties to be NRHP eligible for the purposes of that undertaking. Caltrans shall consult with Indian tribes that may attach religious or cultural significance to the historic property to determine if the site has values that may qualify it as NRHP eligible under Criterion A, B, or C in addition to, or instead of, Criterion D. This consideration of NRHP eligibility without formal evaluation shall not extend to other undertakings whose APE includes the archaeological property, unless through consultation Caltrans and the SHPO agree otherwise.
4. **Assumption of Eligibility:** Subject to CSO approval, Caltrans Districts may consider properties NRHP eligible for the purposes of an undertaking when special circumstances preclude their complete evaluation, such as restricted access, large property size, or limited potential for effects.
5. **Previously Evaluated Properties:** When previously evaluated properties are identified within an undertaking's APE, Caltrans PQS shall review those previous evaluations to determine whether the previous evaluations are still valid or re-evaluate as appropriate. Indian tribes shall be consulted during the review and re-evaluation process when properties 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 properties.
6. **Consulting the SHPO:** The Caltrans District shall submit determinations of NRHP eligibility and supporting documentation to the SHPO for comment in accordance with 36 CFR § 800.4(c)(2), with concurrent submittal to CSO. For projects where responsibilities have not been assigned to and assumed by Caltrans, the Caltrans District shall also concurrently submit the determinations and supporting documentation to FHWA.
 - 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 Agreement, based upon Caltrans' determination of NRHP eligibility. Confirmation of date of receipt as the basis for determining the 30-day review period may be provided 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 move forward upon notification to the SHPO and CSO via e-mail or other written communication.
 - b. Agreements or disagreements regarding the NRHP eligibility of properties shall be governed by 36 CFR § 800.4(c)(2), except that in the event of a disagreement, the Caltrans District shall promptly notify CSO, and FHWA as appropriate, whereupon the Caltrans District, CSO, the SHPO, and any Indian tribe or other consulting party shall consult to resolve the disagreement in accordance with a mutually acceptable time frame. If the disagreement is resolved, Caltrans shall proceed in accordance with those requirements of this Agreement that apply to the resolution. If the disagreement is not resolved or if a mutually acceptable time frame to resolve the disagreement is not

reached, CSO shall comply with 36 CFR § 800.4(c)(2). If consultation with the Secretary of the Interior is required, CSO shall ensure that all concerns, including the views of FHWA, the SHPO and any Indian tribe or any other consulting party, and the Corps as appropriate, are included.

7. Notifying Indian tribes: When a Caltrans District has been in consultation with an Indian tribe on the NRHP eligibility of a property, the Caltrans District shall notify the Indian tribe of Caltrans' eligibility determination concurrent with submittal to the SHPO and provide documentation to the Indian tribe, unless the Indian tribe has indicated it does not wish to receive such documentation.

IX. FINDINGS OF EFFECT

A. Finding of No Historic Properties Affected Pursuant to 36 CFR § 800.4(d)(1)

1. Where Caltrans has consulted with Indian tribes or other consulting parties concerning historic properties, Caltrans shall consult with those Indian tribes or other consulting parties on the potential effects of the undertaking. Caltrans shall take their views into account in making its findings.
2. If the Caltrans District finds either that no historic properties are present, or that historic properties are present but the undertaking will have no effect on them, the Caltrans District shall document and retain records of that finding in accordance with Stipulation XVIII. The Caltrans District shall notify any consulting 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 Agreement is required.

B. Finding of Historic Properties Affected

If the Caltrans District finds there are historic properties that may be affected by the undertaking, the Caltrans District shall apply the Criteria of Adverse Effect in accordance with Stipulation X.

X. ASSESSMENT OF EFFECTS

A. Application of Criteria

The Caltrans District shall apply the Criteria of Adverse Effect set forth in 36 CFR § 800.5(a)(1) to findings made pursuant to Stipulation IX.B, taking into account views provided by any Indian tribe and other consulting parties or the public. When any Indian tribe attaches religious or cultural significance to identified historic properties, the Caltrans District shall apply the criteria in consultation with those Indian tribes. Nothing in this stipulation shall override or supersede any Indian tribe's ability to request government-to-government consultation with FHWA or the Corps, as described in Stipulation IV.

B. Finding of No Adverse Effect

The Caltrans District may make a finding of "No Adverse Effect with Standard Conditions" when standard conditions that will avoid adverse effects to historic properties are imposed in accordance with Attachment 5 to this Agreement. The Caltrans District may propose a finding of "No Adverse Effect" if none of the undertaking's anticipated effects meet the Criteria of Adverse

Effect under 36 CFR § 800.5(a)(1), non-standard conditions are imposed to avoid adverse effects, or when the Caltrans District has developed a plan for managing any post-review discoveries, including decision thresholds and procedures for consultation with the SHPO, that would be implemented in accordance with Stipulation XV.

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

The Caltrans District shall submit its finding and supporting documentation to CSO for review. Where FHWA's responsibilities for environmental review and compliance have not been assumed by Caltrans, the Caltrans District shall provide concurrent submittal to CSO and FHWA. The Caltrans District shall concurrently provide documented notification of the finding to any consulting parties that have expressed views regarding potential effects to historic properties. If within 15 days of receipt CSO or FHWA does not object to the proposed NAE-SC finding, the undertaking shall not be subject to further review under this Agreement. CSO shall provide summary notification to the SHPO of all NAE-SC findings in accordance with Stipulation XX.F(3).

- a. Environmentally Sensitive Areas (ESAs): A finding of NAE-SC-ESA is appropriate when an undertaking's effects to historic properties, 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 Agreement. 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 NAE-SC-ESA applies.
- b. Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS): A finding of NAE-SC-SOIS is appropriate when an undertaking's effects to historic properties may be considered to be not adverse if the work is consistent with the SOIS (36 CFR Part 68) and carried out in accordance with Attachment 5 to this Agreement.
- c. Additional Standard Conditions: CSO may propose the adoption of additional standard conditions that have proven effective in avoiding adverse effects to historic properties. 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 XX.D(2).

2. Finding of No Adverse Effect

- a. When Caltrans proposes a No Adverse Effect finding other than a finding of NAE-SC specified in Stipulation X.B.1, the Caltrans District shall submit its proposed finding and supporting documentation to CSO for review. If CSO agrees with the proposed finding, CSO shall consult with the SHPO pursuant to 36 CFR § 800.5(c). Where FHWA's responsibilities for environmental review and compliance have not been assumed by Caltrans, CSO shall concurrently notify FHWA of the finding. The Caltrans District shall concurrently provide documented notification of the finding to any consulting parties that have expressed views regarding potential effects to historic properties, including a request that any comments be directed to CSO, or FHWA as appropriate, within 30 days of receipt of notification.

- b. If within 30-calendar days of receipt, neither SHPO nor any consulting party objects to the “No Adverse Effect” finding, the undertaking shall not be subject to further review under this Agreement. CSO, or FHWA where FHWA’s responsibilities for environmental review and compliance have not been assumed by Caltrans, and the SHPO may agree to extend the 30-day time frame for SHPO review specified in 36 CFR § 800.5(c). Confirmation of date of receipt as the basis for determining the 30-day review period may be provided 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. Disagreements or objections to a finding of “No Adverse Effect” will be addressed in accordance with Stipulation X.D.

3. Re-assessment of Effects

If the undertaking will not be implemented as proposed in relation to any historic property, Caltrans will re-open consultation under Stipulation X of this Agreement.

C. Finding of Adverse Effect

1. Where adverse effects cannot be avoided pursuant to Stipulation X.B, or for any other reason, the Caltrans District shall propose to CSO a finding of “Adverse Effect” and shall submit to CSO documentation supporting the proposed finding in accordance with Stipulation XVIII.
 - a. Upon CSO’s agreement with the finding, CSO shall forward the finding of “Adverse Effect” to the SHPO. Where Caltrans has not assumed responsibility for environmental review and compliance, CSO shall concurrently provide FHWA with the finding of “Adverse Effect” and supporting documentation. The Caltrans District shall provide notice of the finding to Indian tribes and other consulting parties and interested members of the public, as appropriate, and shall assist CSO with the resolution of adverse effects pursuant to Stipulation XI.
 - b. If the SHPO has not responded to Caltrans within 30-calendar days after receipt, Caltrans, or FHWA where FHWA’s responsibilities for environmental review and compliance have not been assumed by Caltrans, may either extend the review period in consultation with the SHPO or proceed to the next step prescribed by this Agreement. Documentation of date of receipt as the basis for determining the 30-day review period may be provided 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.
2. When an undertaking affects archaeological properties listed in or eligible for listing in the NRHP exclusively under Criterion D of the NRHP criteria, the Caltrans District shall concurrently notify CSO, FHWA as appropriate, the SHPO, and consulting parties as appropriate, of the proposed finding of “Adverse Effect” with documentation supporting that finding in accordance with Stipulation XVIII. These parties shall have 30-calendar days following receipt of notification to comment to the Caltrans District on the proposed finding. 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.

3. Caltrans CSO shall notify the ACHP of an adverse effect finding and invite its participation in accordance with 36 CFR § 800.6(a) under any of following conditions:
 - a. When the undertaking affects a National Historic Landmark. Under this condition, the CSO shall also notify the Secretary of the Interior.
 - b. When the effects to historic properties are highly controversial or there is substantial public interest in the undertaking's effects on historic properties.
 - c. When Caltrans, FHWA, as appropriate, and the SHPO are unable to reach agreement on the resolution of adverse effects.
 - d. When the SHPO or another consulting party requests that the ACHP be invited to participate in consultation.
4. Caltrans shall file any Memorandum of Agreement (MOA) executed for any undertaking with the ACHP prior to proceeding with the undertaking.

D. Resolving Disagreements Regarding Assessment of Effects

Disagreements that may arise within the review periods established under the terms of Stipulation X shall be addressed in accordance with the process described below.

1. CSO, or FHWA where Caltrans has not assumed responsibility for environmental review and compliance, shall consult with the SHPO and/or any Indian tribe or other consulting party for no more than 30-calendar days to resolve the disagreement. If at any time during this consultation period, CSO, or FHWA as appropriate, determines that the disagreement cannot be resolved through such consultation, CSO, or FHWA as appropriate, shall request the ACHP to review the disagreement and CSO's, or FHWA's as appropriate, proposed resolution. In addition, an Indian tribe that attaches religious or cultural significance to an identified historic property may specify the reason for its disagreement within the 30-day consultation period and directly request the ACHP to review the disagreement. Within 30-calendar days following receipt of CSO's, or FHWA's as appropriate, or an Indian tribe's request and receipt of supporting documentation, the ACHP will exercise one of the following options:
 - a. Advise CSO, or FHWA as appropriate, that the ACHP concurs in the proposed response to the disagreement whereupon CSO, or FHWA as appropriate, may proceed accordingly; or
 - b. Provide CSO, or FHWA as appropriate, with recommendations, that will be taken into account in reaching a final decision regarding its response to the disagreement; or
 - c. Notify CSO, or FHWA as appropriate, that the disagreement will be referred for comment pursuant to 36 CFR § 800.7(c)(4) and proceed to refer the disagreement for comment. In this event, the Caltrans Director, or FHWA where Caltrans has not assumed responsibility for environmental review and compliance, shall take the resulting comment into account in accordance with 36 CFR § 800.7(c)(4) and Section 110(1) of the NHPA. Responsibilities under this Agreement that are not the subject of the disagreement shall remain unchanged.

2. Should the ACHP not exercise one of the foregoing options within 30-calendar days after receipt of all pertinent documentation, the agency official's responsibilities under Section 106 of the NHPA are fulfilled upon implementation of the proposed response to the disagreement.
3. CSO, or FHWA as appropriate, shall take into account any ACHP recommendation or comment and any comments from the SHPO or any consulting party in reaching a final decision regarding the disagreement.
4. CSO, or FHWA as appropriate, shall provide the SHPO, ACHP, and any consulting parties with a written copy of its final decision regarding resolution of any disagreement addressed hereunder. Thereafter, CSO, or FHWA as appropriate, may proceed in accordance with the terms of its resolution.
5. CSO's, or FHWA's as appropriate, resolution of any disagreement addressed hereunder shall be conclusive.

XI. RESOLUTION OF ADVERSE EFFECTS

- A. CSO, or FHWA where Caltrans has not assumed responsibility for environmental review and compliance, with the cooperation and assistance of the Caltrans District, shall consult pursuant to 36 CFR §§ 800.6(a) and 800.6(b)(1) to resolve adverse effects that may result from undertakings covered by this Agreement. The Caltrans District shall consult with the Indian tribes that ascribe religious or cultural significance to affected historic properties and other consulting parties in determining appropriate measures to resolve adverse effects. Caltrans, or FHWA as appropriate, shall also include the ACHP as part of the consultation when the ACHP has notified the agency official that it will participate in the consultation.
- B. When resolution of adverse effects includes proposals to conduct data recovery on historic properties, a data recovery proposal shall be developed in accordance with Attachment 6 to this Agreement.
- C. Nothing in this Agreement shall override or supersede an Indian tribe's ability to request government-to-government consultation with FHWA or the Corps District related to possible issuance of a DA Permit for a Program undertaking as described in Stipulation IV.
- D. Where FHWA's responsibilities for environmental review and compliance have not been assumed by Caltrans, FHWA retains the right to reverse at any time for reasonable cause any decision allowing Caltrans certain actions prescribed in 36 CFR § 800.6.
- E. If DEA, FHWA where Caltrans has not assumed responsibilities for environmental review and compliance, the SHPO, and the Caltrans District are unable to agree on measures to resolve the adverse effects of an undertaking pursuant to this stipulation, they shall invite the ACHP to participate in the resolution process pursuant to 36 CFR § 800.6(b)(1)(v). If the involved parties agree to a resolution, they shall execute an MOA. If the involved parties fail to agree to measures to resolve the adverse effects, DEA, the SHPO, FHWA as appropriate, or the ACHP may terminate consultation pursuant to 36 CFR § 800.7(a). Upon termination, the signatories shall comply with the remaining requirements of 36 CFR § 800.7.

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

A. Consistent with 36 CFR §§ 800.4(b)(2) and 800.5(a)(3), and subject to CSO approval, the Caltrans District may approve the phasing of identification, evaluation, and application of the Criteria of Adverse Effect for undertakings covered by this Agreement. As specific aspects or locations of an alternative are refined or access gained, the Caltrans District shall proceed with the identification and evaluation of historic properties and with application of the Criteria of Adverse Effect in accordance with applicable provisions of this Agreement.

B. CSO may approve phasing when minor access restrictions preclude completion of identification efforts, evaluation of a potential historic property, and/or effects determination until after a NEPA decision document is signed but prior to implementation of the undertaking. The Caltrans District shall establish that a “No Historic Properties Affected” or “No Adverse Effect” finding is likely based on documentation of identification and evaluation efforts within the accessible portion(s) of the APE and background research on the inaccessible portion(s). In addition to the above documentation, the Caltrans District shall submit a plan for completion of identification and evaluation that includes a schedule and provisions for notification or consultation with CSO and SHPO. Consultation with SHPO on this finding shall follow the process established in Stipulation X.B.2.

XIII. NATIVE AMERICAN HUMAN REMAINS AND RELATED CULTURAL ITEMS

A. Treatment on Federal Lands

On federal land where the federal land managing agency has designated Caltrans lead pursuant to 36 CFR § 800.2(a)(2), if human remains and/or cultural items as defined by the Native American Graves Protection and Repatriation Act of 1979 (NAGPRA) are anticipated to be found during archaeological excavation or construction, the Caltrans District shall assist the federal land managing agency, in consultation with the appropriate Indian tribes to develop, in accordance with NAGPRA regulations 43 CFR § 10.3, the NAGPRA Plan of Action (NAGPRA POA). The NAGPRA POA outlines the consultation process and the treatment of any human remains and cultural items upon discovery.

B. Treatment on Non-Federal Lands

If human remains or associated items are encountered during archaeological surveys or excavations or during construction activities, Caltrans shall follow California Health and Safety Code section 7050.5 and Public Resources Code section 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.

XIV. CURATION

A. Collections from Federal Lands

Where the federal land managing agency has designated Caltrans lead pursuant to 36 CFR § 800.2(a)(2), the Caltrans District shall comply with the federal land-managing agency’s curation

policies and make every reasonable effort to ensure that cultural materials and records resulting from excavation or surface collection pursuant to this Agreement conducted on federal lands are curated in accordance with Curation of Federally-owned and Administered Archaeological Collections (36 CFR Part 79), or as may be stipulated in any agreement document pertaining to an undertaking covered by this Agreement. Native American human remains and cultural items determined in consultation with Indian tribe(s) to be associated funerary objects, sacred objects and objects of cultural patrimony, as defined by NAGPRA, shall be prepared for disposition pursuant to NAGPRA POA and any other requirements agreed to by the federal land managing agency.

B. Collections from Non-Federal Lands

The Caltrans District shall ensure that cultural materials and records resulting from excavations or surface collections on non-federal 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), or as outlined in an agreement document pertaining to the undertaking covered by this Agreement. Native American human remains and associated items shall not be curated but addressed in consultation with the most likely descendent(s) designated by California's NAHC pursuant to California Public Resources Code section 5097.98. Sacred objects and objects of cultural patrimony, as defined by NAGPRA, shall not be curated but addressed in consultation with Indian tribe(s), consistent with 43 CFR § 10.3.

XV. POST-REVIEW DISCOVERIES

A. Planning for Subsequent Discoveries

When Caltrans' identification efforts in accordance with Stipulation VIII.B indicate that historic properties are likely to be discovered during implementation of an undertaking, the Caltrans District shall include in any finding of No Adverse Effect or MOA a plan for treatment of such properties, should they be discovered. The Caltrans District shall consult with any Indian tribe that may attach religious or cultural significance to potentially affected properties, or any other consulting party that may have a demonstrated interest in potentially affected properties, 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 an undertaking affects a previously unidentified property or affects a known historic property 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 property.
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, the SHPO, FHWA where responsibility for environmental review has not been assigned, any Indian tribe that might attach religious or cultural significance to the affected property, the federal agency if federal lands are involved and the federal agency has designated Caltrans lead pursuant to 36 CFR § 800.2(a)(2), the Corps District if within a DA Permit area, or any other consulting

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 property or properties, assessment of NRHP eligibility of any properties, the type and extent of any damage to the property, the proposed action, any prudent and feasible treatment measures that would take any effects into account, and a request for comments. Caltrans may furnish this information through correspondence, hard copy, electronic media, telephone, or meetings, at its discretion taking into account the capabilities of the consulting parties and must document this process for the administrative record. Caltrans may assume eligibility of any potentially affected property 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 interests of consulting 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.
4. If a National Historic Landmark is affected, the Caltrans District shall include the Secretary of the Interior and the ACHP in the notification process.

XVI. EMERGENCY SITUATIONS

- A. Pursuant to 36 CFR § 800.12(d), this stipulation applies only to undertakings 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-days. Caltrans shall follow Stipulations VII through XI for all undertakings to be initiated more than 30-days following declaration of an emergency, unless an extension has been approved by SHPO.
- B. The Caltrans District PQS shall determine whether the emergency undertaking has the potential to affect historic properties. If historic properties are likely to be affected by the emergency undertaking, the Caltrans District shall notify CSO, the SHPO, FHWA where responsibilities have not been assumed, and any Indian tribes that might attach religious or cultural significance to the affected property 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 eligibility of any properties, the type and extent of any damage to the property, 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.

- C. The Caltrans District shall provide the SHPO, CSO, and any additional consulting parties, including the Corps District if a DA Permit is required, a narrative report documenting the actions taken in accordance with this expedited consultation process within six (6) months following the initiation of expedited consultation.

XVII. LOCAL BRIDGE SEISMIC SAFETY RETROFIT PROGRAM

In 1995, FHWA, Caltrans, SHPO and ACHP entered into a Programmatic Agreement to programmatically implement compliance with Section 106 of the NHPA under the California Seismic Retrofit of Bridge Structures Program, which is considered an emergency program. Since the implementation of the Seismic Retrofit Programmatic Agreement, the State-owned bridges and toll bridges have been retrofitted, but the Local Bridge Seismic Safety Retrofit Program is still in effect. In that the federal regulations at 36 CFR Part 800 have changed since 1995, the Seismic Retrofit Programmatic Agreement is superseded by this Agreement and the relevant provisions that provide for expedited compliance are updated to comply with the current regulations in 36 CFR Part 800 and incorporated as Attachment 7 to this Agreement. Caltrans shall follow applicable stipulations in this Agreement to determine the seismic retrofit project's potential to affect historic properties. This stipulation will remain in effect until CSO notifies the SHPO, the ACHP and other consulting parties that all actions under the Local Bridge Seismic Safety Retrofit Program have been completed or this Agreement is terminated.

XVIII. DOCUMENTATION

- A. All documentation that supports findings and determinations made under this Agreement shall be consistent with 36 CFR § 800.11 and attachments to this Agreement, shall be peer-reviewed by Caltrans PQS in the appropriate discipline, and shall be in accordance with the SER Volume 2 and its subsequent revisions or editions.
- 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, FHWA, and/or the SHPO as stipulated by this Agreement. The Caltrans District shall not transmit to CSO, FHWA, the SHPO, and/or any consulting party any documentation that has not been reviewed and approved by Caltrans PQS in the appropriate discipline.
- C. All documentation prepared under this Agreement shall be kept on file at Caltrans District offices and made available to consulting parties and the public as stipulated by this Agreement, consistent with applicable confidentiality requirements.

XIX. TRAINING REQUIREMENTS

CSO shall, with the assistance of FHWA, the ACHP, and the SHPO, provide training for Caltrans personnel relative to implementation of this Agreement and 36 CFR Part 800. Caltrans PQS responsible for making, reviewing, or approving findings and determinations made under this Agreement and 36 CFR Part 800 shall receive such training prior to being certified as PQS in the appropriate discipline and prior to implementing activities under this Agreement, and shall receive periodic refresher training as determined by CSO and SHPO. Caltrans Districts shall work with their consultants and local governments to identify areas where training can improve

performance under this Agreement and CSO shall work with the Caltrans Districts to make such training available, subject to funding availability. CSO and Caltrans Districts, in consultation with the SHPO, shall identify needs and provide training to project management responsible for undertakings under this program.

XX. ADMINISTRATIVE STIPULATIONS

A. Resolving Objections

1. Should any signatory object in writing to Caltrans, or FHWA when it is the agency official, regarding the manner in which the terms of this Agreement are carried out, Caltrans or FHWA will immediately notify the other signatories and invited signatories of the objection and proceed to consult with the objecting party to resolve the objection. Caltrans or FHWA will honor the request of any other signatory to participate in the consultation and will take any comments provided by such parties into account. Caltrans or FHWA as appropriate shall establish a reasonable time frame for such consultation.
2. If the objection is resolved through consultation, Caltrans or FHWA may authorize the disputed action to proceed in accordance with the terms of such resolution.
3. If after initiating such consultation, Caltrans or FHWA determines that the objection cannot be resolved through consultation, Caltrans, or FHWA shall forward all documentation relevant to the objection to the ACHP, including Caltrans' or FHWA's proposed response to the objection. Within 30-calendar days after receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
 - a. Advise Caltrans or FHWA that the ACHP concurs in Caltrans' or FHWA's proposed response to the objection, whereupon Caltrans or FHWA will respond to the objection accordingly; or
 - b. Provide Caltrans or FHWA with recommendations, which Caltrans or FHWA shall take into account in reaching a final decision regarding its response to the objection; or
 - c. Notify Caltrans or FHWA that the objection will be referred for comment consistent with 36 CFR § 800.7(a)(4) and proceed to refer the objection for comment. In this event, Caltrans or FHWA shall take the resulting comments into account consistent with 36 CFR § 800.7(c)(4). Caltrans responsibilities under this Agreement that are not the subject of the disagreement shall remain unchanged.
4. Should the ACHP not exercise one of the foregoing options within 30 days after receipt of submitted pertinent documentation, the agency official's responsibilities under Section 106 of the NHPA are fulfilled upon implementation of the proposed response to the objection.
5. Caltrans or FHWA shall take into account any ACHP recommendation or comment and any comments from the other signatories and invited signatories to this Agreement in reaching a final decision- regarding the objection. Caltrans' or FHWA's responsibility to carry out all actions under this Agreement that are not the subjects of the objection shall remain unchanged.

6. Caltrans or FHWA shall provide all other signatories and invited signatories to this Agreement with a written copy of its final decision regarding any objection addressed pursuant to Stipulation XX.A.
7. Caltrans or FHWA may authorize any action subject to objection under items 1-6 of Stipulation XX.A to proceed, provided the objection has been resolved in accordance with the terms of items 1-6 of Stipulation XX.A.

B. Public Objection

At any time during implementation of the terms of this Agreement, should any member of the public raise an objection in writing pertaining to such implementation to any signatory to this Agreement, that party shall immediately notify Caltrans. Caltrans shall immediately notify the other signatory parties in writing of the objection. Any signatory may choose to comment on the objection to Caltrans. Caltrans shall establish a reasonable time frame for this comment period. Caltrans shall consider the objection, and in reaching its decision, Caltrans will take all comments from the other parties into account. Within 15-calendar days following closure of the comment period, Caltrans will render a decision regarding the objection and respond to the objecting party. Caltrans will promptly notify the other parties of its decision in writing, including a copy of the response to the objecting party. Caltrans' decision regarding resolution of the objection will be final. Following issuance of its final decision, Caltrans may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.

C. Exclusionary Provision

1. Probation
 - a. The DEA Chief may place an individual Caltrans District, Division, Office or Branch on probation at the request of the CSO Chief in consultation with the Office of Historic Preservation (OHP) Review and Compliance Unit Supervisor. Probation means loss of specific authority delegated under the Agreement, as determined by the CSO Chief in consultation with the OHP Review and Compliance Unit Supervisor. Probation may result from a pattern of compliance deficiencies identified during CSO and OHP project review or an Agreement review or annual report, or failing to maintain the PQS necessary to implement the provisions of the Agreement. Examples of deficient compliance actions that may be cause for probation include, but are not limited to, inappropriate APE delineation, inappropriate application of the screening process, insufficient identification efforts resulting in post-review discovery, ESA violations and inadequate consultation efforts.
 - b. The DEA Chief shall provide written notice of probationary action to the administrative unit losing authority and the SHPO. The DEA Chief, in consultation with the CSO Chief, the OHP Review and Compliance Unit Supervisor, 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 DEA Chief, in consultation with the above parties, shall determine whether the POCA has been adequately implemented and the deficiencies corrected. CSO

and the OHP Review and Compliance Unit 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 Agreement.

2. Suspension

- a. The DEA Chief may suspend an individual Caltrans District, Division, Office or Branch at the request of the CSO Chief in consultation with the OHP Review and Compliance Unit Supervisor. Suspension may result from failure to successfully correct the deficiencies that resulted in placement on probation or suspension may be immediate if the DEA Chief 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 Agreement. CSO review and approval of specified compliance actions under the Agreement will be required.
- b. The DEA Chief, in consultation with the CSO Chief, the OHP Review and Compliance Unit Supervisor, 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 DEA Chief, 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 Agreement.

3. Removed Status

- a. At the request of the DEA Chief, 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 Agreement 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 Agreement will require all Section 106 of the NHPA compliance documents to route through CSO who will consult with the SHPO, as appropriate, under 36 CFR Part 800.
- 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.

D. Amendment

1. Any signatory and/or invited signatory to this Agreement may at any time propose amendments, whereupon all signatories and invited signatories shall consult to consider such amendment. This Agreement may be amended only upon written concurrence of all signatories.
2. Each attachment to this Agreement may be individually revised or updated through consultation and agreement in writing of the signatories without requiring amendment of the

Agreement, unless the signatories through such consultation decide otherwise. Upon revising any attachment or appendix, Caltrans shall append any revised document to this Agreement and share the final revised document to the other parties to this Agreement.

E. Corps District Withdrawal from this Agreement

If at any time a Corps District disagrees with the manner in which the terms of an individual undertaking or the terms of this Agreement are carried out, the Corps District may object in writing to DEA. DEA shall follow Stipulation XX.A in resolving the objection. Caltrans responsibility to carry out all actions under this Agreement not the subject of objection shall remain unchanged. If the Corps District and Caltrans are unable to come to agreement, the Corps District may withdraw from participation in an individual undertaking or from this Agreement entirely upon 30-days written notification to all signatories, leaving the Agreement in full force and effect for Program undertakings.

F. Termination

1. Only the signatories may terminate this Agreement. If this Agreement is not amended as provided for in Stipulation XX.D, or if any signatory proposes termination of this Agreement for other reasons, the signatory proposing termination shall notify the other signatories and invited signatories in writing, explain the reasons for proposing termination, and consult with the other parties 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 Agreement by promptly notifying the other signatories, invited signatories, and concurring parties in writing.
4. Beginning with the date of termination, Caltrans or FHWA shall ensure that until and unless a new agreement is executed for the actions covered by this Agreement, such undertakings shall be reviewed individually in accordance with 36 CFR §§ 800.4-800.6.

G. Review and Reporting

1. DEA, FHWA, SHPO, the Corps Districts, and ACHP may review activities carried out pursuant to this Agreement. Caltrans Districts shall facilitate this review by compiling specific categories of information to document the effectiveness of the Agreement and by making this information available to DEA, FHWA, SHPO, Corps Districts, and ACHP in the form of a written report. Categories of information shall include, but are not limited to, a summary of actions taken under the Agreement, including all findings and determinations, accomplishments, public objections, any corrective actions implemented under Stipulation XX.C, ESA violations, inadvertent effects, or foreclosures. The range and type of information included by Caltrans Districts in the written report and the manner in which this information is organized and presented must be such that it facilitates the ability of the reviewing parties to assess accurately the degree to which this Agreement and its manner of implementation constitute an efficient and effective program alternative under 36 CFR § 800.14, and to determine whether this Agreement should remain in effect, and if so, whether and how it should be improved through appropriate amendment.

2. CSO shall prepare an annual written report of activities performed under this Agreement for its duration, unless the signatories agree to amend the reporting schedule. The initial report shall be prepared following completion of the first full State fiscal year under this Agreement. CSO shall submit the annual reports to the SHPO, FHWA, Corps Districts, and the ACHP no later than three (3) months following the end of the State fiscal year.
3. 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, and include FHWA for undertakings where FHWA has retained responsibility for environmental review and compliance. After the first year of this Agreement, 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 Agreement.
4. 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.
5. At the request of any other signatory to this Agreement, CSO shall ensure that one or more meetings are held to facilitate review of, and comment on, the report to address questions, issues, or adverse comments.
6. In conjunction with the review of the reports prepared by Caltrans pursuant to this stipulation, the signatories and invited signatories may consult to review the overall effectiveness and benefits of the Agreement, determine if its requirements are being met, decide if amendments to the Agreement are warranted, review the reporting format and categories for adequacy, and identify any other actions that may be needed in order to take into account the effects of the Program on historic properties in California.

H. Confidentiality

All parties to this Agreement acknowledge that information about historic properties, prospective historic properties, or properties considered historic for purposes of this Agreement are or may be subject to the provisions of NHPA section 304, 36 CFR § 800.11(c), and California Government Code section 6254.10 and 6254(r) (Public Records Act), relating to the disclosure of sensitive information, and having so acknowledged, will ensure that all actions and documentation prescribed by this Agreement are, where necessary, consistent with the requirements of NHPA section 304, 36 CFR § 800.11(c), 5 USC § 552 as amended (Freedom of Information Act), and California Government Code section 6254.10 and 6254(r).

I. Duration of this Agreement

This Agreement shall remain in effect for a period of ten (10) 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 18 months prior to the expiration date of the Agreement, Caltrans shall initiate consultation to determine if the Agreement 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 Agreement, this Agreement shall automatically expire and have no further force or effect in accordance with the timetable stipulated herein.

J. Effective Date of this Agreement and of Additional Attachments and Amendments

This Agreement shall take effect January 1, 2014, following execution by FHWA, the SHPO, the ACHP, and Caltrans. Additional attachments or amendments to this Agreement shall take effect on the dates they are fully executed by FHWA, the SHPO, the ACHP, and Caltrans.

Execution and implementation of this Agreement evidence that FHWA, Caltrans, when it is deemed to be a federal agency, and the Corps have afforded the ACHP a reasonable opportunity to comment on the Program and its individual undertakings in California, that FHWA, Caltrans and the Corps have taken into account the effects of the Program and its individual undertakings on historic properties, and that FHWA, Caltrans and the Corps have complied with Section 106 of the NHPA and 36 CFR Part 800 for the Program and its individual undertakings.

FIRST AMENDED

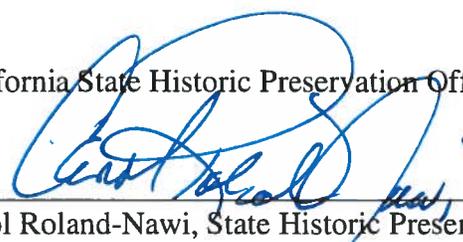
**PROGRAMMATIC AGREEMENT AMONG THE FEDERAL HIGHWAY
ADMINISTRATION, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION REGARDING COMPLIANCE
WITH SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

SIGNATORY PARTIES

Federal Highway Administration

By:  Date: 12/12/13
Vincent Mammano, California Division Administrator

California State Historic Preservation Officer

By:  Date: 12-19-13
Carol Roland-Nawi, State Historic Preservation Officer

Advisory Council on Historic Preservation

By: _____ Date: _____
John M. Fowler, Executive Director

California Department of Transportation

By:  Date: 12/19/2013
Malcolm Dougherty, Director

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

INVITED SIGNATORY PARTIES:

UNITED STATES ARMY CORPS OF ENGINEERS

United States Army Corps of Engineers, Sacramento District

By: _____ Date: _____

Michael J. Farrell, P.E.
Colonel, US Army
Commander / District Engineer

United States Army Corps of Engineers, Los Angeles District

By: _____ Date: _____

Kimberly M. Colloton, PMP
Colonel, US Army
Commander and District Engineer

United States Army Corps of Engineers, San Francisco District

By: _____ Date: _____

John K. Baker, P.E.
Lieutenant Colonel, US Army
Commander / District Engineer

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

CONCURRING PARTIES:

By:  Date: 12/19/13
Chief, Division of Environmental Analysis

By:  Date: 12-19-2013
Chief, Cultural Studies Office

By:  Date: 12/19/2013
District 1 District Director

By:  Date: 12/19/13
District 2 District Director

By:  Date: 12/19/13
District 3 District Director

By:  Date: 12/19/13
District 4 District Director

By:  Date: 12/19/13
District 5 District Director

By:  Date: 12-19-2013
District 6 District Director

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 NATIONAL HISTORIC PRESERVATION ACT, AS IT
PERTAINS TO THE ADMINISTRATION OF THE FEDERAL-AID HIGHWAY
PROGRAM IN CALIFORNIA**

By: Cami A. Sewer Date: 12/19/13
Acting District 7 District Director

By: [Signature] Date: 12/19/13
District 8 District Director

By: [Signature] Date: 12/19/13
District 9 District Director

By: [Signature] Date: 12/19/13
District 10 District Director

By: [Signature] Date: 12/19/13
District 11 District Director

By: [Signature] Date: 12/19/13
District 12 District Director

ATTACHMENTS

ATTACHMENT 1
CALTRANS PROFESSIONALLY QUALIFIED STAFF STANDARDS

As outlined in Stipulation III of this Agreement, 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 federal mandates associated with compliance with Section 106 of the National Historic Preservation Act.

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 Agreement, 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 Section 106 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 Section 106 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 Section 106 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 Section 106 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 Section 106 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;

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 Section 106 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 UNDERTAKINGS

Screened undertakings are classes of undertakings that have the potential to affect historic properties, but following appropriate screening, may be determined exempt from further Section 106 review under this Agreement.

This Attachment applies only when the undertaking is limited exclusively to one or more of the activities listed below. If the Caltrans PQS determines that the undertaking has potential to affect historic properties, additional Section 106 review will be required following the steps outlined in Stipulation VIII of this Agreement.

The Caltrans PQS is responsible for screening individual undertakings that fall into one or more of the classes of screened undertakings listed below to determine if the individual undertaking requires further consideration, or if it may be determined exempt from further review under the terms of this Agreement, as prescribed by Stipulation VII. Only Caltrans PQS may determine that an undertaking is exempt from further review as a result of screening.

Except for minor maintenance on historic bridges and tunnels, the undertaking will not qualify as exempt from further review if there may be historic properties present that could be affected. An undertaking will not qualify as exempt from review if conditions must be imposed to ensure that potential historic properties would not be affected.

All features of the undertaking, 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 undertaking, the undertaking must be rescreened.

THE SCREENING PROCESS

The screening process may include one or more of the following procedures. The process is not limited to the procedures below, nor are all these procedures required for all undertakings. Screening should be appropriate to the specific complexity, scale, scope, and location of the undertaking. Screening may include:

- Literature/records review to determine potential for involvement of historic properties.
- 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 undertakings are exempt from further review as there is no potential to affect historic properties.

The Caltrans PQS prepares a Screening Memo to the project planner for inclusion in the Caltrans District project file to document completion of the Section 106 process for applicable classes of screened undertakings and no further review will be necessary.

CLASSES OF SCREENED UNDERTAKINGS

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 AREA OF POTENTIAL EFFECTS DELINEATION

In accordance with the Stipulations VI.B.8 and VIII.A of this Agreement, Caltrans will establish the Area of Potential Effects (APE) for undertakings covered by this Agreement. The Caltrans PQS and project manager are jointly responsible for describing and establishing an APE and will sign any maps or plans that define or redefine an APE.

When the guidelines below are followed, specific consultation with the SHPO regarding APE and level of effort will typically not be necessary. Consultation with the SHPO may be needed for large and complex undertakings, 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 properties, 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 properties when delineating the APE.

APE DEFINITION

As defined in 36 CFR § 800.16(d), an APE is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” An APE therefore depends on an undertaking’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 property; physical alterations; moving or realigning a historic property; isolating a property from its setting; visual, audible, or atmospheric intrusions; shadow effects; vibrations; and change in access or use.

APE BOUNDARIES

An APE delineates the boundaries within which it can be reasonably expected that a proposed undertaking has the potential to affect historic properties, 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 undertaking.

An APE 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.

INDIRECT EFFECTS AND BOUNDARIES

An APE 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 APE 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 property'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 historic property 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.

APES AND PROPERTY TYPES

Different APEs may be established for archaeological, cultural and built-environment properties:

1. For archaeological properties, an APE is typically established based on an undertaking'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 an APE for the built and cultural environment is usually broader than an archaeological APE in order to include the potential for such effects. For instance, the first row of potential properties beyond the right of way may be subject to such effects and thus included in an indirect APE when warranted.

In delineating the APE, consideration must always be given to the undertaking's potential effects on a historic property as a whole. If any part of a property may be affected, the APE will generally encompass the entire property, including the reasonably anticipated or known boundaries of archaeological sites. However, it is rarely necessary to extend an APE 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 an APE is that it should be commensurate with, and provide for, an appropriate level of effort to take into account an undertaking's potential for effects on historic properties.

While an APE will generally encompass an entire property, physical intrusion such as testing of archaeological sites should be focused on areas subject to reasonably foreseeable effects of the undertaking and must be guided by a project- or site-specific research design. Areas of an archaeological site that are unlikely to be affected by an undertaking 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 historic properties early in the planning and design of an undertaking, Caltrans PQS may designate a study area for use in conducting historical studies until an APE can be delineated. A study area should encompass all land that could potentially be included in the final APE. Establishing a study area is especially pertinent to those undertakings subject to a phased identification and evaluation process.

PROJECT CHANGES AND APE REVISIONS

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

ATTACHMENT 4 PROPERTIES EXEMPT FROM EVALUATION

Section 106 regulations require a "reasonable and good faith effort" to identify historic properties (36 CFR § 800.4[b][1]). The procedures in this attachment enable Caltrans PQS to concentrate their efforts on properties that have the potential to be historic properties by identifying categories of properties that have no potential to be a historic property.

Properties should be evaluated only if Caltrans PQS or appropriately qualified consultants reasonably determine that the property has potential for historic significance. Evidence of such potential consists of associations with significant historic events or individuals (Criterion A or B); engineering, artistic, design, or aesthetic values (Criterion C); information value (Criterion D); the presence of tribal or community concerns; or inclusion as a potential contributing element within a larger property requiring evaluation, such as a historic district.

This attachment defines categories of properties that do not warrant evaluation pursuant to Stipulation VIII. C.1 of this Agreement. Exempted properties may be documented, if documentation is warranted, at a level commensurate with the nature of the property [e.g., Primary Record form, Location Map, Memo, or Caltrans Cultural Resources Database (CCRD)].

ARCHAEOLOGICAL PROPERTIES (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 that the archaeological property 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.

Archaeological Property Types and Features Exempt from 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

ARCHITECTURAL AND HISTORICAL PROPERTIES

Certain architectural and historical property types are exempt from evaluation; additional types may be exempt from evaluation after review by a qualified Architectural Historian.

Architectural and Historical Property Types Exempt from Evaluation:

Historical Property Types 1, 2, and 3 will not require evaluation, except as noted. 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 architectural and historical properties fall under Property Types 1, 2, or 3 and are therefore exempt from evaluation.

Property Type 1: Minor, ubiquitous, or fragmentary infrastructure elements

Note: The following list does not apply to properties 50 years old or older that could be potentially important, nor does it apply to properties that may contribute to the significance of larger historic properties such as districts or cultural landscapes.

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 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

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 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 less than 50 years old.

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.

Property Type 2: Buildings, structures, objects, districts, and sites less than 30 years old

Properties less than 30 years old may be exempted from evaluation. If the age of a property is not readily discernible the date of construction may be confirmed by checking assessor's records or other sources, such as USGS quadrangle maps or building permits, or by consulting a qualified Architectural Historian.

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

Substantially altered properties that appear to be contemporary structures may be exempted from evaluation. A qualified Architectural Historian should review altered properties 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.

Architectural and Historical Property Types Exempt from Evaluation after Review by Qualified Architectural Historians:

Historical Property 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.

Property Type 4: Buildings, structures, objects, districts, and sites 30 to 50 years old

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

Property Type 5: Buildings, structures, and objects moved within the past 50 years

Properties which 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. Properties moved more than 50 years ago shall be formally evaluated, unless they also qualify as property types exempted from evaluation (e.g., a building moved before its period of significance but which has since lost integrity through alterations). 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.

Property Type 6: Altered buildings, structures, objects, districts, and sites that appear to be more than 30 years old

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

Property Type 7: Post-World War II builders’ houses and housing tracts

Builders’ houses or tract houses (not including unique, architect-designed houses) and 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 should 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 two 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-b). Caltrans may propose that additional standard conditions be included by revision of this attachment in accordance with Stipulation X.B.1(c).

1. ENVIRONMENTALLY SENSITIVE AREAS AS A STANDARD CONDITION

Environmentally Sensitive Areas (ESAs) are locations of archaeological sites, cultural sites or built-environment properties within the APE that are to be protected by avoidance or restrictions on Program activities. ESAs typically use fencing, flagging, signing, or monitoring to protect properties 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 properties 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, Caltrans PQS shall ensure the local agency monitor their construction contractor to ensure compliance with all ESA requirements.

Archaeological sites that can be protected by ESA’s may be considered eligible for the purposes of the undertaking without subsurface excavation and/or surface collection in accordance with Stipulation VIII.C.3. Cultural sites that can be protected by ESA’s may be considered eligible for the purposes of the undertaking in accordance with Stipulation VIII.C.4.

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 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 property or other consulting parties.

Built-environment properties, regardless of ESA protection, must be evaluated for National Register eligibility unless approved in consultation with CSO pursuant to Stipulation VIII.C.4. As ESA’s are designed to protect properties from direct effects, they may only be applied to built-environment properties when a PQS Principal Architectural Historian determines that the undertaking will not indirectly affect the built-environment property. If there is potential for indirect effects, the Caltrans District shall proceed in accordance with Stipulation X.B.2.

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), 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 property boundary in relation to the anticipated project impacts and to identify contributing features of the property. 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 undertaking are sufficiently developed and detailed to ensure that the property 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, 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 XVIII. 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 historic property when specifically provided for by a condition in a finding of "No Adverse Effect" pursuant to Stipulation X.B.2, or as part of resolution of adverse effects when specifically provided for in an MOA developed pursuant to Stipulation XI, Resolution of Adverse Effects.

Caltrans District PQS shall report all ESA violations to CSO within 48 hours. Caltrans Districts shall report ESA violations where properties are impacted in accordance with Stipulation XV.B. Post-Review Discoveries.

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 (SOIS) to avoid adverse effects may be considered a standard condition when an undertaking'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 built-environment properties, they must be reviewed and approved by a Caltrans Principal Architectural Historian. Although rarely used for archaeological and cultural sites that are listed on or eligible for listing on the National Register of Historic Places (NRHP), 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), 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 historic property and accurately determine the scope of construction activities and their

impacts on the property. Information on the historic property's character defining or essential physical features may be obtained from the NRHP nomination form for a listed property, the NRHP determination of eligibility documentation, including the property's DPR 523 form(s), or character defining features summary form, if one has been prepared.

- B. The scope and design of the undertaking 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. 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, 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. A SOIS Action Plan is developed to ensure that provisions for protection are carried out and will be documented in accordance with Stipulation XVIII. 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, Caltrans PQS shall ensure the local agency complies with all SOIS Action Plan requirements.

ATTACHMENT 6
STANDARD TREATMENT OF ARCHAEOLOGICAL SITES:
DATA RECOVERY PLAN

In accordance with Stipulation XI.B of this Agreement, potential adverse effects to an archaeological property may be resolved through data recovery to recover important information that would have been otherwise lost as a result of an undertaking. 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.

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

- Discussion of the National Register significance of a property.
- Research questions that are directly pertinent to those data sets that qualify the property for inclusion in the National Register 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 property 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 property's structure and content in the context of the defined research questions and the property's stratigraphic and geomorphic context.
- Laboratory processing and analyses, with justification of their cost-effectiveness and of their relevance to the property 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.

ATTACHMENT 7
CALTRANS LOCAL BRIDGE SEISMIC SAFETY RETROFIT PROGRAM

In accordance with Stipulation XVII, Caltrans shall comply with the following provisions for undertakings under the Caltrans Local Bridge Seismic Safety Retrofit Program (Seismic Retrofit Program). Caltrans shall follow applicable stipulations in this Agreement to determine the seismic retrofit project's potential to affect historic properties.

APPLICABILITY

Activities covered under the Seismic Retrofit Program include seismic retrofit work that is funded wholly or in part with monies from FHWA and that involve either the structural modification of an existing bridge structure or the replacement of a bridge structure by a newly constructed structure and any associated activities within the APE of an undertaking.

UNDERTAKINGS NOT REQUIRING SHPO OR ACHP REVIEW

The Caltrans District may approve the undertaking without further review by SHPO when the Caltrans District PQS determines that an undertaking under the Seismic Retrofit Program meets the below criteria. The Caltrans District PQS will document these determinations in writing and retain them in the files. CSO will include a record of such determinations in annual reports to SHPO pursuant to Stipulation XX.F.2.

- A. Will affect only Category 5 bridges or the types of properties that are exempt from evaluation as described in Attachment 4 to this Agreement; or
- B. Will be limited exclusively to those activities listed below limited only to the bridge itself:
 - 1. **SHEAR BLOCKS/CATCHER BLOCKS:** The addition of concrete extensions to existing abutments and bents to prevent the bridge superstructure from moving laterally (Shear Blocks), or to prevent the superstructure from slipping off the abutment in the case of longitudinal movement (Catcher Blocks). [Reference: National Highway Institute "Seismic Design of Highway Bridges -- Training Course," Figures 6.3-8, 6.3-9b.]
 - 2. **CIDH PILINGS:** The addition of concrete pilings, cast in holes drilled through existing abutments in order to strengthen bridge footings. [Reference: Caltrans Plan Sheet "Abutment Longitudinal Anchorage Details, Bridge No. 53-1854, 07-LA-90, P.M. 2.67."]
 - 3. **FIBER WRAPPING:** The wrapping of existing columns in fiberglass, which is then painted to match existing concrete.
 - 4. **BASE ISOLATION WITH NO GROUND DISTURBANCE:** The replacement of existing rocker bearings with an elastomeric shock-absorbing system (base isolators) at the bearing points between the superstructure and substructure of bridges. [Reference: National Highway Institute "Seismic Design of Highway Bridges -- Training Course," Figure 6.3-9]
 - 5. **PRE-STRESSING BENT CAPS:** The addition of pre-stressing reinforcement to existing concrete bent caps.

6. **RESTRAINER SYSTEMS:** The addition of pipe seat extensions or cable restrainers to prevent lateral or longitudinal movement of the bridge superstructure off the substructure. [Reference: National Highway Institute “Seismic Design of Highway Bridges -- Training Course,” Figures 6.3-9b, 6.3-30, 6.3-31, and Caltrans Plan Sheet “Part Plans ‘C’ and ‘D’, Exposition OH - Earthquake Upgrade, Bridge No. 53-704K, 07-LA-405, P.M. 29,85.”]
7. **STEEL JACKETING:** The placement of steel jackets around existing concrete columns, when the work conforms to the *Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS Standards)* and has been approved by a Caltrans PQS Principal Architectural Historian as meeting these standards. [Reference: National Highway Institute “Seismic Design of Highway Bridges -- Training Course,” Figure 6.3-27, Caltrans Plan Sheets “Earthquake Upgrading, Bent Retrofit Details No. 6, Bridge No. 33-303H, 04-ALA-24/680/980,” “Earthquake Retrofit Phase II, Southbound Connector Overcrossing, Bent Details, Bridge No. 35-219, 04-SM-280, P.M. 20.9,” and “Earthquake Upgrading, Confinement Plate Details No. 1, 04-ALA-24/580/980.”]
8. **COLUMN REPLACEMENT:** In-kind replacement of existing column elements of bridges, when the work conforms to the *SOIS Standards* and has been reviewed by a Caltrans PQS Principal Architectural Historian as meeting these standards.
9. **STEEL BRACING:** The addition of steel cross-bracing between columns in multi-column bents.

DETERMINATION OF ELIGIBILITY: EXPEDITED RESOLUTION WITH SHPO

For properties not previously evaluated or that have been reevaluated, the Caltrans District will forward its written determination of eligibility and supporting documentation concurrently to CSO, FHWA where FHWA’s responsibilities have not been assigned to and assumed by Caltrans, and SHPO for review, pursuant to Stipulation VIII.C.6, and VIIC.6.a and b. except that if SHPO objects to the determination of eligibility within 30 days of receipt of adequate documentation, the Caltrans District and CSO or FHWA as applicable, and any consulting parties shall consult further with SHPO to reach agreement. If agreement cannot be reached within 15 days after receipt of the objection, CSO, or FHWA as applicable, shall obtain a final determination of eligibility from the Keeper pursuant to 36 CFR Part 63. The Keeper’s decision shall be final.

FINDING OF NO ADVERSE EFFECT

- A. The Caltrans District shall submit a finding of “No Adverse Effect with Standard Conditions” to CSO for review pursuant to Stipulation X.B.1.
- B. The Caltrans District shall submit a finding of “No Adverse Effect” pursuant to Stipulation X.B.2.
- C. If SHPO objects within 30 days following receipt of the finding, CSO will notify the Caltrans District and any consulting parties and consult further with SHPO, as necessary, for a period not to exceed 15 days to determine whether there are feasible alternatives that may avoid adverse effects to the affected historic property. If the parties agree that it is feasible to modify the undertaking to avoid adverse effects, the Caltrans District shall ensure that the undertaking is modified appropriately and may request that CSO approve the modified

undertaking without further review. If CSO or SHPO cannot agree that an adverse effect can be avoided, CSO shall initiate consultation pursuant to Stipulation X.D.

FINDING OF ADVERSE EFFECT-EXPEDITED DISAGREEMENT RESOLUTION

If the Caltrans District determines that the Seismic Retrofit Program undertaking will adversely affect a historic property or if an objection to a finding of “No Adverse Effect” cannot be resolved within 15 days, the Caltrans District will proceed in accordance with Stipulation X.C. If disagreements arise, the Caltrans District will proceed in accordance with Stipulation X.D, except consultation response times shall be 15 days instead of 30 days.

RESOLUTION OF ADVERSE EFFECT-STANDARD MITIGATION MEASURES

CSO, or FHWA where FHWA’s responsibilities have not been assigned to and assumed by Caltrans, is required to use Stipulation XI if one or more of the following apply:

1. SHPO objects to the use of Standard Mitigations Measures identified below to resolve adverse effects.
2. SHPO withdraws from consultation.
3. The undertaking has known public opposition.
4. The undertaking’s APE includes archaeological properties that will be adversely affected.
5. The undertaking will adversely affect a National Historic Landmark.

If CSO, or FHWA as applicable, elects to enter into consultation as set forth Stipulation XI, or is required to as described in 1 through 5 above, CSO will submit to SHPO documentation supporting the finding of “Adverse Effect” and enter the consultation process set forth in Stipulation XI.

The Caltrans District, in consultation with CSO, SHPO and other consulting parties, may implement the Standard Mitigation Measures (SMMs) listed below to take into account the adverse effects of an undertaking on any NRHP eligible or listed bridge, building, structure, or object. Where the SMMs do not apply or other properties are adversely affected, the Caltrans District shall follow Stipulation XI. When the finding of “Adverse Effects” submittal includes appropriate provisions for completion of SMMs and no other non-standard mitigation measures are included, a Memorandum of Agreement (MOA) will not be required. Where SMMs provisions are not included, CSO and SHPO will consult to establish time frames for their completion and will prepare a MOA.

A. Recordation

Caltrans and SHPO may mutually agree to waive the recordation requirement if the affected historic property will be retrofitted in substantial conformance to *SOIS Standards*.

A recordation plan will not be required if the Caltrans District records the historic property using the procedures set forth in the Standard Environmental Reference Volume 2-Cultural Resources and Exhibit 7.6: Heritage Documentation, Caltrans District shall keep the original archivally-safe documentation and provide electronic copies on CD/DVD to SHPO, the Caltrans Headquarters Transportation Library and History Center, the California History Room of the California State

Library, and the appropriate local historical society or local repository as determined by the Caltrans District.

Otherwise, the Caltrans District will complete the following:

- 1) The Caltrans District shall ensure that historic properties are recorded prior to their demolition or alteration according to a recordation plan developed in consultation with SHPO and Caltrans. At a minimum, this recordation plan will establish recordation methods and standards and designate the appropriate archives for the deposit of this material.
- 2). The recordation plan shall consist of: i) large format archival photographs, prepared in accordance with the most current versions of *Photographic Specifications*, *Historic American Buildings Survey*, *Historic American Engineering Record* (National Park Service); and ii) written historical documentation, including photocopies of original plans and drawings when available and not deemed to be confidential information, prepared in accordance with the standards set forth in the most current versions of *Historic American Buildings Survey: Guidelines for Preparing Written Historical and Descriptive Data* (National Park Service) or *Historic American Engineering Record: Guidelines for Preparing Written Historical and Descriptive Data* (National Park Service). The Caltrans District shall keep the original archivally-safe documentation and provide electronic copies on CD/DVD to SHPO, the Caltrans Headquarters Transportation Library and History Center, the California History Room of the California State Library, and the appropriate local historical society or local repository as determined by the Caltrans District.

B. Marketing Plan

If the proposed undertaking requires the demolition or replacement of a NRHP eligible or listed bridge, building, structure, or object, the Caltrans District shall consult with CSO and SHPO, and if appropriate, the property owner for a period not to exceed ten (10) days to determine if that property can be relocated and a marketing plan implemented. If the parties determine that a marketing plan is feasible, CSO, the Caltrans District and SHPO will review the advertising schedule to ensure that notice is provided in appropriate publications and that the property is offered for no less than forty-five (45) days after its initial advertisement. CSO, in consultation with the Caltrans District and SHPO, shall evaluate all relocation and reuse offers prior to acceptance. If no acceptable offers are received that conform to the requirements for rehabilitation and maintenance as set forth in *SOIS Standards* and relevant SOIS guidance, the historic property, or portions of it, may be transferred without preservation covenants or restrictions, or the Caltrans District may authorize its demolition following recordation and salvage, if appropriate. The Caltrans District shall document this determination in its files and provide CSO and SHPO with written notification.

C. Salvage

If the property will be demolished, the Caltrans District will consult with CSO and SHPO to determine whether the property contains significant architectural features that could be reused, displayed, interpreted, or curated. If such features exist, the Caltrans District in consultation with CSO and SHPO, and the property owner will develop measures to ensure that the selected features are removed in a manner that minimizes damage and are delivered to an appropriate party for curation and reuse.

D. National Register Reevaluation

Within ninety (90) days after relocation of a property that is eligible or listed in the NRHP, the Caltrans District shall consult with SHPO regarding the property's continued eligibility. For properties listed in the NRHP or determined eligible by the Keeper of the NRHP, the Caltrans District shall include the Keeper in the consultation. In the case of demolition of a property that is listed in the NRHP, the Caltrans District shall concurrently notify CSO and the SHPO to initiate the process for removal of the property from the NRHP as outlined in 36 CFR § 60.15.

**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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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 CFR 60 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

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 Reference⁴ (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 2⁵ 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 NRHP⁶ and CHL⁷ 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**

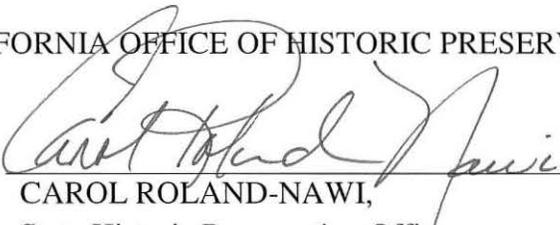
SIGNATORY PARTIES:

DEPARTMENT OF TRANSPORTATION

By: 
For MALCOM DOUGHERTY, Director

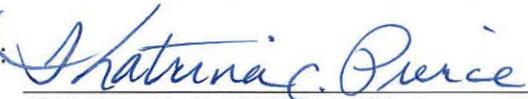
Date: 12/22/14

CALIFORNIA OFFICE OF HISTORIC PRESERVATION

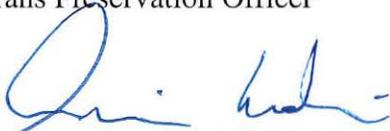
By: 
CAROL ROLAND-NAWI,
State Historic Preservation Officer

Date: 12-17-14

CONCURRING PARTIES:

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

Date: 12-12-14

By: 
ANMARE MEDIN, Chief
Cultural Studies Office
Division of Environmental Analysis

Date: 12-12-14

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION
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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: Cavie L. Bowen Date: 12-15-14
District 7 District Director

By: [Signature] Date: 12/12/14
District 8 District Director

By: Michael D. Buehler Date: 12/12/2014
District 9 District Director

By: [Signature] Date: 12/12/14
District 10 District Director

By: [Signature] Date: 12-12-14
District 11 District Director

By: [Signature] 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;

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 5¹ 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 not 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 Understanding¹ (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 develop 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 Governments² 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 ordinance³ 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.

Exhibit 1.3: Definitions of Terms

Unless specifically indicated otherwise, the following descriptions and definitions of terms apply throughout [Volume 2](#) – Cultural Resources of the *Standard Environmental Reference (SER)*.

Advisory Council on Historic Preservation (ACHP): an independent federal agency, which advises the President and Congress on historic preservation issues and administers the provisions of Section 106 of the National Historic Preservation Act.

Area of Potential Effects (APE): the area, or areas, within which an undertaking may cause changes in the character or use of historic properties, should any be present.

Archaeological Monitoring Area (AMA): Area within or near construction limits where access is allowed, but work is subject to archaeological monitoring.

California Historical Landmark (CHL): an official state list of properties of statewide significance designated under provisions of the Public Resources Code by the State Historical Resources Commission; also called State Historic Landmark (SHL).

California Register of Historical Resources (CRHR): a state list to be used as an authoritative guide to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change.

Caltrans Cultural Resources Database (CCRD): an electronic inventory of architectural and archeological cultural resources that provides a connection to cultural resources along right-of-ways. Because it stores crucial and confidential cultural resources information its use is restricted to use by Caltrans cultural resource staff.

Cultural resource: any tangible or observable evidence of past human activity, regardless of significance, found in direct association with a geographic location, including tangible properties possessing intangible traditional cultural values.

Determination of eligibility (DOE): a finding that a property meets the eligibility criteria for inclusion in the National Register of Historic Places, although not actually listed, and is afforded the same protection under Section 106 as a listed property; resources determined eligible for listing in the California Register by the State Historical Resources Commission are afforded similar consideration under CEQA.

Environmentally Sensitive Area (ESA): For cultural resources compliance purposes, an area that contains a historic property that is listed or eligible for listing in the National Register of Historic Places and is protected from harm during implementation of a project or activity.

Finding of Adverse Effect (FAE): a finding in the Section 106 compliance process that a project will directly or indirectly alter the characteristics of a historic property that qualify it for inclusion in the National Register of Historic Places. Examples of adverse effects include physical destruction or damage; alteration not consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*; relocation of a property; change of use or physical features of a property's setting; visual, atmospheric, or audible intrusions; neglect resulting in deterioration; or transfer, lease, or sale of a property out of Federal ownership. This type of finding requires that a Memorandum of Agreement be signed that includes mitigation measures to avoid or reduce harm to the affected historic properties.

Finding of No Adverse Effect with Standard Conditions - Environmentally Sensitive Area (FNAE-SC: ESA): a finding under the Section 106 Programmatic Agreement in which a historic property is actively protected from harm during the implementation of a project. By establishing an ESA during the projects' process, Caltrans is legally committing to protect historic properties from any adverse effects, thereby avoiding a "Finding of Adverse Effect." While primarily used for archeological sites, buildings and structures also may be protected by ESAs. This type of finding does not require consultation with the State Historic Preservation Officer or the Advisory Council on Historic Preservation.

Finding of No Adverse Effect with Standard Conditions - Secretary of the Interior's Standards for the Treatment of Historic Properties (FNAE-SC: SOIS): [add something here] a finding under the Section 106 Programmatic Agreement in which it is possible on a project to avoid adverse effects to a historic property by ensuring that the project or activity will be completed according to the *Secretary of the Interior's Standards for Treatment of Historic Properties (SOIS)* when an undertak-

ing consists of maintenance, repairs, rehabilitation or alterations. This is used primarily for built environment historic properties such as buildings, bridges, structures and roads. This type of finding does not require consultation with the State Historic Preservation Officer or the Advisory Council on Historic Preservation.

Finding of No Adverse Effect without Standard Conditions: a finding under the Section 106 Programmatic Agreement in which adverse effects to historic properties may be avoided by imposing conditions on the project other than the standard conditions described above. This type of finding requires approval by the Caltrans Headquarters Division of Environmental Analysis Cultural Studies Office and the State Historic Preservation Officer must concur with the finding.

Historic property: in federal law, a district, site, building, structure, or object significant in American history, architecture, engineering, archaeology, or culture at the national, state, or local level, that has integrity, and that meets the National Register criteria.

Historic Property Survey Report (HPSR): a document used for federal undertakings that summarizes the first steps in the Section 106 process, including the project description, establishment of the Area of Potential Effects, the adequacy of identification efforts for potential historic properties, public participation, determinations of eligibility and ineligibility for listing in the National Register, and findings of No Historic Properties affected. The document constitutes the legal findings for these activities under Section 106 projects funded by the Federal Highway Administration in California, and serves as official document by which Caltrans, as assigned by the Federal Highway Association, consults with the California State Historic Preservation Officer, as applicable under the Section 106 Programmatic Agreement.

Historical resource: in state law, any object, building, structure, site, area, place, record, or manuscript found to be historically or archaeologically significant, or significant in other specific aspects of California life, and that meets the California Register criteria.

Historical Resources Compliance Report (HRCR): a document that Caltrans uses to document compliance with state environmental law, such as CEQA, Public Resources Code Section 5024 and Governor's Order W-26-92, for state-only projects and activities. The document includes the project description, establishment of the Project Area Limits, adequacy of identification efforts for potential historical re-

sources under CEQA, public participation, determinations of whether cultural resources within the project area meet the eligibility criteria for the California Register of Historical Resources, impact findings, and if applicable, measures to mitigate below the level of significance or mitigation measures for substantial adverse changes to historical resources. The document constitutes the legal findings for these projects and activities, and serves as the official document by which Caltrans documents compliance with California environmental laws and regulations for cultural resources and consults with the California State Historic Preservation Officer.

Historical resource under CEQA: in state law, any cultural resource that is designated as historic under a local ordinance or resolution, any resource that is identified as significant in a local survey that meets the Office of Historic Preservation standards, any resource that is listed in or has been determined eligible for listing in the National Register of Historic Places, any resource that is listed in or has been determined eligible for listing in the California Register by the State Historical Resources Commission, any resource that meets the California Register criteria as outlined in PRC 5024.1.

Letter Report: a document that is only used to justify exempting properties from evaluation when the Section 106 Programmatic Agreement does *not* apply, such as when such cultural resources are located on tribal lands or when Caltrans, as assigned by the Federal Highway Administration (FHWA) or FHWA as applicable, is not the lead federal agency.

Local register of historical resources: a list of properties officially designated or recognized as historically significant by a local government under a local ordinance or resolution.

Master List of Historical Resources (Master List): in state law, a list of state-owned cultural resources that are listed in the National Register/CHL, and state-owned buildings and structures that have been determined eligible for inclusion in the National Register or CHL criteria, maintained by the State Historic Preservation Officer, pursuant to Public Resources Code 5024.

National Historic Landmark (NHL): a property formally designated by the Secretary of the Interior as having special importance in the interpretation and appreciation of the nation's history; NHLs receive additional protection under Section 106 (36 CFR 800.10).

National Register of Historic Places (NRHP): the national master inventory of known historic properties; the National Park Service administers the National Register. It may include properties significant at the national, state, and local level.

Office of Historic Preservation (OHP): the name of California's state historic preservation office.

Points of Historical Interest (POI): an official state list of properties of local interest designated under the provisions of the Public Resources code by the State Historic Resources Commission.

Project: the whole of a discretionary action that has the potential for resulting in either a direct or foreseeable indirect physical change in the environment

Project Area Limit: in state law, the area, or areas, within which a project may cause changes in the character or use of historical resources, should any be present.

Public Resources Code 5024: the section of state law that requires state agencies to formulate policies to preserve and maintain state-owned historical resources “in a spirit of stewardship and trusteeship for future generations;” to consult with the State Historic Preservation Officer regarding its inventory of state-owned historical resources; and potential effects to state-owned historical resources in the Master List of Historical Resources; and to notify the State Historic Preservation Officer of potential effects to state-owned non-structural historical resource.

Public Resources Code (PRC) 5024 Memorandum of Understanding (5024 MOU): the legal document between Caltrans and the California State Historic Preservation Officer, that allows Caltrans to comply with PRC 5024 by using streamlined measures for many steps in this compliance process for state-owned cultural resources.

Section 106: the section of the National Historic Preservation Act which requires that federal agencies take into account the effect of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation an opportunity to comment on such undertakings. Regulations implementing Section 106 are found at 36 Code of Federal Regulations (CFR) Part 800.

Section 106 Programmatic Agreement (Section 106 PA): the legal document among the Federal Highway Administration, Advisory Council on Historic Preserva-

tion, California State Historic Preservation Officer, and Caltrans that allows Caltrans to comply with Section 106 of the National Historic Preservation Act by using streamlined measures for many steps in the Section 106 process. The Section 106 PA is for use on Federal-Aid Highway Program in California.

State Historic Preservation Officer (SHPO): the appointed official in each state and territory charged with administering the national historic preservation program mandated by the National Historic Preservation Act 1966.

State-Only Project: a project or activity that has no federal involvement but is still subject to state laws and regulations.

Study Area: until an Area of Potential Effects is designated and approved by the Federal Highway Administration, the temporary name for the area, or areas, within which an undertaking may cause changes in the character or use of historic properties should any be present. The term is also used in CEQA documents.

Traditional Cultural Property (TCP): in federal law, a special category of cultural resources that are associated with the traditional cultural practices or beliefs of a living community and that meets the eligibility criteria for inclusion in the National Register of Historic Places. They may consist of buildings, structures, objects, sites, or districts that are rooted in a traditional community's history *and* are important in maintaining the continuing cultural identity of that community.

Tribal Cultural Resource (TCR): under CEQA, a category of historical resource that identifies a tribal cultural resource as a site, feature, place, cultural landscape or object that has cultural value to a California Native American tribe and meets the criteria for inclusion in the California Register of Historical Resources or on a local agency register.

Tribal Historic Preservation Officer (THPO): the tribal official who has formally assumed the SHPO's responsibilities for the purposes of section 106 compliance on tribal lands.

Undertaking: under Section 106, a project, activity, or program that receives federal funds or is under the direct or indirect jurisdiction of a federal agency, including federal licenses and permits.

Exhibit 1.4: Abbreviations

ABBREVIATION	TITLE
AChP	Advisory Council on Historic Preservation (also abbreviated as “Council”)
ADI	Area of Direct Impact
AE	Adverse Effect
AER	Archaeological Evaluation Report
AIRFA	American Indian Religious Freedom Act
AMA	Archaeological Monitoring Area
APE	Area of Potential Effects
ARPA	Archaeological Resources Protection Act
ASR	Archaeological Survey Report
BEPS	Built Environment Preservation Services Branch
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
CARIDAP	California Archaeological Resource Identification and Data Acquisition Program
CCR	California Code of Regulations
CCRD	Caltrans Cultural Resources Database
CE	Categorical Exemption
CEQA	California Environmental Quality Act
CLG	Certified Local Government
CSO	Cultural Studies Office
CFR	Code of Federal Regulations
CHL	California Historical Landmark (Also abbreviated SHL)
CHRIS	California Historical Resources Inventory System
CRHR	California Register of Historical Resources
DEA	Division of Environmental Analysis
DEBC	District Environmental Branch Chief
DNAC	District Native American Coordinator
DPR	Department of Parks and Recreation
DPR 523 Form	Department of Parks and Recreation 523 series inventory and recordation forms
DRP	Data Recovery Plan
EBC	Environmental Branch Chief
EO	Executive Order
EIR/EIS	Environmental Impact Report/Environmental Impact Study

ABBREVIATION	TITLE
ESA	Environmentally Sensitive Area
FAE	Finding of Adverse Effect
FAE-SMM	Finding of Adverse Effect with Standard Mitigation Measures
FHWA	Federal Highway Administration
FOE	Finding of Effect
FNAE	Finding of No Adverse Effect
FNAE no SC:	Finding of No Adverse Effect without Standard Conditions (For a federal undertaking.)
FNAE-SC-CLG Designation	Finding of No Adverse Effect with Standard Conditions: transfer of a state-owned historical resources that has been locally designated by a Certified Local Government under its preservation ordinance (California)
FNAE-SC-ESA	Finding of No Adverse Effect with Standard Conditions: the establishment of Environmentally Sensitive Areas
FNAE-SC-SOIS	Finding of No Adverse Effect with Standard Conditions: the use of the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i>
HABS	Historic American Building Survey
HAER	Historic American Engineering Record
HALS	Historic Landscapes Survey
HRC	Heritage Resource Coordinator
HPSR	Historic Property Survey Report
HPTP	Historic Properties Treatment Plan
HRCR	Historical Resources Compliance Report
HRER	Historical Resources Evaluation Report
Master List	Master List of State-owned Historical Resources (California)
MLD	Most Likely Descendent
MOA	Memorandum of Agreement
NAC	Statewide Native American Coordinator
NAHC	Native American Heritage Commission
NAGPRA	Native American Graves Protection and Repatriation Act
ND	Negative Declaration
NEPA	National Environmental Policy Act
NHL	National Historic Landmark
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places (also National Register)
NPS	National Park Service

ABBREVIATION	TITLE
OHP	Office of Historic Preservation/State Historic Preservation
PA	Programmatic Agreement
PDT	Project Development Team
PI	Principal Investigator
PID	Project Initiation Document
POI	Point of Historical Interest (California)
PQS	Professionally Qualified Staff
PRC	Public Resources Code (California)
PRC 5024 MOU	Public Resources Code 5024 Memorandum of Understanding (Also abbreviated 5024 MOU)
PSR	Project Study Report
PSSR	Project Scope Summary Report
ROW	Right-of-way
Section 106 Branch	Section 106 Programmatic Agreement Coordination Branch
Section 106 PA	Section 106 Programmatic Agreement
SER	Caltrans <i>Standard Environmental Reference</i>
SHPO	State Historic Preservation Officer
SOIS	Secretary of the Interior's Standards for the Treatment of Historic Properties
SHRC	State Historical Resources Commission
SPA	Special Projects Archaeology Branch
TCP	Traditional Cultural Property
TCR	Tribal Cultural Resource
THPO	Tribal Historic Preservation Officer
USC	United States Code
USFS	United States Forest Service
UTM	Universal Transverse Mercator
XPI	Extended Phase I (proposal or report)

Exhibit 1.5: Historic Preservation Laws and Regulations Summary

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Exhibit 1.5: Historic Preservation Laws and Regulations Summary

Federal Laws and Regulations

Federal Law

Compliance with the following federal statutory laws and regulations is required on all transportation projects with federal involvement, which includes funding, licensing, and issuing of permits.

Historic Sites Act of 1935 (16 USC 461 et seq)

Under this act, Congress established a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States. This act authorized the Historic American Building Survey (HABS), the Historic American Engineering Record (HAER), the National Survey of Historic Sites, the establishment of National Historic Sites, and the designation of National Historic Landmarks. The act also authorized interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources. Implementing regulations of the act are found in 36 CFR Part 60 series.

National Environmental Policy Act of 1969 (42 USC 4321-4347)

The National Environmental Policy Act (NEPA) mandates the protection of cultural resources within its general policy for environmental protection. It requires the preservation of important historic, cultural, and natural aspects of our national heritage, and the maintenance, wherever possible, of an environment that supports diversity and a variety of individual choice. Regulations promulgated by the Advisory Council on Historic Preservation provide for the coordination of NEPA and NHPA compliance, under 36 CFR Part 800.14(a). Regulations for implementing the procedural provisions of NEPA are available at 40 CFR Part 1500-1508.

National Historic Preservation Act of 1966 (16 USC 470 et seq)

The National Historic Preservation Act (NHPA) created the National Register of Historic Places, which includes cultural resources of national, state, and local significance. The act established a system for state historic preservation programs under State Historic Preservation Officers. This act also established the Advisory

Council on Historic Preservation, an independent agency which is responsible for implementing **Section 106** of NHPA through the development of procedures to protect cultural properties included in, or eligible for inclusion in, the National Register. Regulations are published in 36 CFR Part 60 and 63, and 36 CFR Part 800.

U.S. Department of Transportation Act of 1966 (49 USC 303); Federal-Aid Highway Act of 1968 (23 USC 138)

Under these acts, the national policy to preserve historic properties was expanded to include cultural resources affected by federal-aid transportation projects. The acts declare that special efforts should be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites. **Section 4(f)** of the Department of Transportation Act stipulates that the Secretary of Transportation shall not approve any federally assisted project which would take land from a historic site of national, state, or local significance unless there is no feasible and prudent alternative, and unless the proposed use includes all possible planning to minimize harm to historic sites resulting from that use. Regulations developed by the Advisory Council on Historic Preservation provide for the coordination of USDOT's Section 4(f) and NHPA compliance, under 36 CFR Part 800.14(b). Regulations are at 23 CFR Part 774.

Urban Mass Transportation Assistance Act of 1970 (49 USC 1610)

Congress, under the Urban Mass Transportation Assistance Act (UMTA) identified historic site protection provisions similar to those of the D.O.T. Act of 1966. The act requires that a "special effort be made to preserve...important historical and cultural assets," and that federally funded mass transit projects shall not be approved unless there is "no feasible and prudent alternative" to doing any harm to those assets, and unless "all reasonable steps have been taken to minimize such effect." regulations for this act and the D.O.T. Act of 1966 are in 23 CFR Part 771.

***Archaeological and Historic Preservation Act of 1974
(16 USC 469 et seq)***

This act, also called the Moss-Bennett Act, applies to most federal construction projects. It requires the federal agency to notify the Secretary of the Interior if a project threatens the loss or destruction of significant historic or archaeological data.

FHWA's Section 106 compliance process provides substantially the same protection; consequently Moss-Bennett is not invoked on FHWA projects.

American Indian Religious Freedom Act of 1978 (42 USC 1996)

This law guarantees the rights of American Indians to express and practice traditional religions, and directs federal agencies to protect and preserve these rights.

Archaeological Resources Protection Act of 1979 (16 USC 470aa et seq)

In order to protect archaeological resources on public lands and Indian lands, this act requires permits in order to excavate or remove any archaeological resources. Unauthorized activities are punishable by fine, imprisonment, or both. (Rules and regulations concerning this act are printed under 43 CFR Part 7.)

Native American Graves Protection and Repatriation Act (25 USC 3001 et seq)

The 1990 law known as NAGPRA requires federal agencies and museums receiving federal funds to inventory and repatriate human remains and associated funerary objects, including items of cultural patrimony. The agencies and museums must offer to return these remains and objects to the Native American groups who are judged to be the most likely descendants or most closely culturally affiliated. The law also protects Native American graves and other cultural items located within archeological sites on federal and tribal land.

Federal Executive Order

Executive Order 11593, "Protection and Enhancement of the Cultural Environment," May 13, 1971 (reprinted in 16 USC 470)

This executive order outlines federal procedures for protecting cultural resources under federal ownership and provides direction on the process by which eligible properties are nominated to the National Register of Historic Places. Inventory and nomination requirements of this order do not directly apply to FHWA, as FHWA does not own property. Under Section 1(3), FHWA is required to contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archaeological significance. This order strengthened Section 106 by extending the requirements of the law to protect eligible and potentially eligible National Register properties. (Rules and regulations concerning this order are found in 36 CFR Part 60 and 63, and 36 CFR Part 800.)

Federal Regulations

Implementing Regulations for Section 106, National Historic Preservation Act (36 CFR 800)

As directed by the National Historic Preservation Act, particularly Section 106, these regulations direct all federal agencies to take into account the effects of the agency's undertakings (projects) on National Register listed or eligible properties, and to coordinate compliance efforts. Federal agencies must follow the process described in this set of regulations. Compliance with the regulations that implement Section 106 is commonly referred to as the "106 Process." Section 106 requires Caltrans, through its involvement with FHWA, to "take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register," and afford the Advisory Council on Historic Preservation (ACHP) "a reasonable opportunity to comment with regard to such undertaking." Included in the regulations are methods federal agencies can use to coordinate the compliance requirements of NEPA, NHPA, and other federal historic preservation laws.

Implementing Regulations National Register of Historic Places Determinations of Eligibility, National Historic Preservation Act (36 CFR 63 and 36 CFR 60)

Federal agencies use the procedures established by these regulations to identify and evaluate cultural resources, and to determine their eligibility for inclusion in the National Register of Historic Places, in accordance with 36 CFR 800.

Secretary of Interior's Standards for Professional Qualifications (36 CFR Part 61)

Defines the minimum qualifications accepted by National Park Service for individuals who perform identification, evaluation, registration and treatment of cultural resources.

State Laws and Regulations

State Law

Statutory laws and regulations enacted by the State of California are listed below. Similar to federal law, state legislation also mandates measures to encourage and regulate historic preservation activities in California. State preservation legislation is found under various divisions of the California Annotated Code.

California Environmental Quality Act of 1970 (CEQA) (PRC 21000 et seq.)

CEQA declares that it is state policy to "take all action necessary to provide the people of this state with...historic environmental qualities." It further states that public or private projects financed or approved by the state are subject to environmental review by the state. All such projects, unless entitled to an exemption, may proceed only after this requirement has been satisfied.

CEQA requires detailed studies that analyze the environmental effects of a proposed project. In the event that a project is determined to have a potential significant environmental effect, the act requires that alternative plans and mitigation measures be considered. CEQA includes historic and archaeological resources as integral features of the environment.

California Register of Historical Resources (PRC 5024.1)

Public Resources Code 5024.1 establishes the California Register of Historical Resources. The register is listing of all properties considered to be significant historical resources in the state. The California Register includes all properties listed or determined eligible for listing on the National Register, including properties evaluated under Section 106, and State Historical Landmarks from No. 770 on. The criteria for listing are the same as those of the National Register. The California Register statute specifically provides that historical resources listed, determined eligible for listing on the California Register by the State Historical Resources Commission, or resources that meet the California Register criteria are resources, which must be given consideration under CEQA (see above). Other resources, such as resources listed on local registers of historic registers or in local surveys, **may** be listed if they are determined by the State Historic Resources Commission to be significant in accordance with criteria and procedures to be adopted by the Commission and are nominated; their listing in the California Register, is not automatic.

State-owned Historical Resources (PRC 5024-5024.5 and PRC 5027)

Section 5024 requires each state agency to "formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction." It directs agencies to prepare inventories of all state-owned historical resources and to evaluate them using the National Register and California Historical Landmark criteria. "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." Until

the inventory is complete, state agencies shall ensure that any structure that might qualify is not inadvertently transferred or altered.

In 1992, PRC 5024.1 was added, establishing the California Register of Historical Resources to identify the state's historical resources, and "to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change."

PRC 5024.5 stipulates that before any state agency alters, transfers, relocates, or demolishes historical resources on the Master List of Historical Resources, the agency will give the State Historic Preservation Officer the opportunity to review and comment on the proposed action. This section further requires state agencies and the State Historic Preservation Officer to adopt prudent and feasible measures to eliminate or mitigate adverse effects to historic structures.

Section 5027, prohibits the demolition, destruction or significant alteration (except for restoration to preserve or enhance its historical values) of any state-owned building or structure that is listed in the National Register of Historic Places that is transferred to another public agency, without prior approval of the Legislature by statute.

Disturbance of an Archeological Site (PRC 5097.5)

Section 5097.5 makes it a misdemeanor for anyone to knowingly disturb any archaeological, paleontological, or historical feature situated on public lands.

Native American Religious Freedom (PRC 5097.9 et seq)

This code section prohibits public agencies from interfering with the free expression or exercise of Native American religion, or causing severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property. The only exception occurs when it can be clearly and convincingly demonstrated that the public interest and necessity require such action.

Native American Grave Artifacts (PRC 5097.991)

This section states that "it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated."

Native American Heritage Commission (PRC 5097.9)

Establishes the Native American Heritage Commission (NAHC). The code stipulates that no public agency may alter, modify, disturb, remove, destroy, or damage any Na-

tive American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine except with the consent of the NAHC. In addition, the NAHC can mediate disputes relating to treatment of human remains and designate "most likely descendants" of encountered human remains. Additional information on management of Native American resources and state laws regarding human remains can be found in Chapter 3, Native American Coordination.

***California Historical Building Code
(Health & Safety Code 18950 to 18961)***

State agencies are mandated to use this alternate code on their qualified historical resources that include those that are National Register listed or eligible, California Register listed or eligible, and that are historical resources under CEQA.

State Executive Order

Executive Order W-26-92

The Governor's Executive Order W-26-92 directs all state agencies to administer the cultural and historic properties under their control, regardless of who owns the resources, and to initiate measures to preserve, restore, and maintain significant state-owned properties. It specifically requires agencies to appoint an agency preservation officer, to develop management plans for their significant heritage resources, to complete the inventories of their state-owned historical resources as directed in PRC 5024, and to report annually to the State Historic Preservation Officer on these activities.

State Regulations

CEQA Guidelines (14CCR 15000 et seq)

The CEQA Guidelines govern the implementation the California Environmental quality Act. Of particular importance for cultural resources are: Section 15064.5, determining the significance of impacts to archaeological and historical resources, Section 15126 on mitigation measures to minimize significant effects to historical resources, and Section 15331 categorical exemption of a project involving historical resource when the work involves repairs, maintenance, alterations, rehabilitation, etc. of historical resources when the *Secretary of the Interior's Standards for the Treatment of Historic Properties* are used.

California Register of Historical Resources (14 CCR 4850)

These regulations govern the nomination of resources to the California Register. The regulations set forth the criteria for eligibility, as well as guidelines for integrity and resources that have special considerations.

State and Federal Guidance

Both federal and state agencies provide guidance and technical assistance for the implementation of cultural resource laws and regulations. Some of the most useful publications are cited below with a brief summary of content.

Advisory Council on Historic Preservation

Section 106 Regulation Changes

This series of documents explain the changes that were made to 36 CFR Part 800 effective January 2001. Changes to the regulations are summarized; there is a section-by-section discussion of changes, guidance regarding transition from old to new regulations, and discussion of consultation with Indian tribes.

Preparing Agreement Documents: How to Write Determinations of No Adverse Effect, Memoranda of Agreement, and Programmatic Agreements Under 36 CFR Part 800

Informally known as PAD, this document is a comprehensive technical handbook for the various agreement documents, and it standardizes Section 106 agreement language. Caltrans cultural resources staff should use PAD in developing effect packages and agreement documents. Not all stipulations are readily applicable to highway projects, however. Caltrans staff responsible for preparing environmental compliance documents should be selective about which stipulations are used and should consult with FHWA in developing Memoranda of Agreement.

Treatment of Archaeological Properties: A Handbook

The handbook provides guidance on ACHP principles, procedures, and methods for the treatment of archaeological properties in accordance with 36 CFR Part 800 regulations. These guidelines assist consulting parties (e.g., FHWA, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation) in determining how to conduct archaeological programs and projects.

Section 106, Step-by-Step

Step-by-Step is a detailed document that explains the Section 106 review process and walks the reader through the procedures established in 36 CFR Part 800.

Identification of Historic Properties: A Decision-making Guide for Managers

This document discusses the fundamental step of identification of historic properties in determining what properties may be affected by an undertaking. It sets out basic principles and approaches that should be considered in designing an effort to identify historic properties. It also explains the application of these principles under various circumstances.

Public Participation in Section 106 Review: A Guide for Agency Officials

This guidance document offers suggestions for improving the effectiveness of an agency's procedures for public participation in the Section 106 process.

Fact Sheets: Section 106 series

The following fact sheets on various Section 106-related topics may be useful to Caltrans personnel responsible for coordination and consultation activities:

- Fact Sheet: Section 106 Participation by Indian Tribes and Other Native Americans
- Fact Sheet: Section 106 Participation by Applicants for and Recipients of Federal Assistance, Permits, and Licenses
- Fact Sheet: Section 106 Participation by Local Governments
- Fact Sheet: Section 106 Participation by State Historic Preservation Officers
- Fact Sheet: Compliance with Section 111
- Fact Sheet: Consulting About Archaeology Under Section 106

U.S. Department of Interior, National Park Service

Archaeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines

Federal and state agencies use the methods and standards for research and resource evaluation established in these instructions to identify, evaluate, register, and treat historic properties. Caltrans personnel should use this guidance whenever a project is subject to the Section 106 process and National Register listed, eligible, or potentially

eligible properties are involved. The guidance also establishes professional qualifications standards for cultural resources personnel.

National Register Bulletins

The National Park Service publishes a series of guidance bulletins to help in identifying and evaluating properties. Basic direction and step-by-step guidance are provided in Bulletins 15 and 16.

Preservation Briefs

The National Park Service publishes a series of guidance brief to help in the repair, rehabilitation, restoration and reconstruction of a variety of historic materials and building components and conservation issues, such as repairing roofs, historic wood windows, and exterior paint problems, energy conservation, mothballing and accessibility in historic buildings. Information contained in these briefs are consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

Heritage Documentation

The National Park Service publishes a series standards and guidelines for its programs: HABS (Historic American Buildings Survey), HAER (Historic American Engineering Record), HALS (Historic American Landscapes Survey), and CRGIS (Cultural Resources Geographic Information Systems) in conformance with the *Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation*. These standards and guidelines are used when mitigation or protective measures call for recordation are a part of a federal undertaking or state-only project that affects historic buildings, structures, sites and landscapes

U.S. Department of Transportation, Federal Highway Administration

Guidance for Preparing Environmental and Section 4(f) Documents, FHWA Technical Advisory T 6640.8A

Guidance provided in this document covers the conduct and preparation of various environmental studies and reports required by NEPA and Section 4(f) of the DOT Act of 1966. Specific instructions are included that detail what is needed in reports to document that cultural resources are considered and discussed, and to demonstrate that the requirements of 36 CFR Part 800.4 have been satisfied.

Guidance on the Consideration of Historic and Archeological Resources in the Highway Development Process, December 1988

FHWA intended this guidance to provide the connection between Advisory Council and National Park Service documents, interpreting compliance in terms of highway projects.

State Office of Historic Preservation

Technical Assistance Series #01: California Environmental Quality Act and Historical Resources

Provides step-by-step guidance on the treatment of historical resources under CEQA. It addresses changes to the CEQA Guidelines made in 1998. It is more up to date than the *CEQA and Archeology* and *CEQA and Historical Resources* publications of the Office of Planning and Research that have not been updated since 1998.

Technical Assistance Series #10: California State Law and Historic Preservation

This contains a compilation of all laws and regulations affecting historical resources in California.

Exhibit 1.6: Required Expertise for Cultural Resources Actions

The tables below outline the types of expertise that are required for actions under the Section 106 Programmatic Agreement, under the PRC 5024 Memorandum of Understanding, and for CEQA projects (Table 1) and for archaeological activities (Table 2).

TABLE 1 PQS LEVELS REQUIRED FOR ACTIONS TAKEN UNDER SECTION 106 PA AND 5024 MOU							
ACTION TAKEN UNDER SECTION 106 PA	PQS Level						
	Lead Archaeological Surveyor	Co-Principal Investigator Prehistoric	Co-Principal Investigator Historical	Principal Investigator Prehistoric Archaeology	Principal Investigator Historical Archaeology	Architectural Historian	Principal Architectural Historian
Screen an undertaking	X+	X+	X+	X+	X+	X+	X+
Set and sign APE in consultation with Project Engineer	X+	X+	X+	X+	X+	X+	X+
Determine archaeological property types in Section 106 PA Attachment 4 as exempt from evaluation		X	X	X	X		
Determine architectural & historical property types 1, 2, and 3 exempt from evaluation in Section 106 PA Attachment 4	X	X	X	X	X	X	X
Determine architectural and historical property types 4, 5, and 6 exempt from evaluation in Section 106 PA Attachment 4						X	X
Conduct archaeological Extended Phase I (prehistoric)		X		X			
Conduct archaeological Extended Phase I (historical)			X		X		

TABLE 1 PQS LEVELS REQUIRED FOR ACTIONS TAKEN UNDER SECTION 106 PA AND 5024 MOU							
ACTION TAKEN UNDER SECTION 106 PA	PQS Level						
	Lead Archaeological Surveyor	Co-Principal Investigator Prehistoric	Co-Principal Investigator Historical	Principal Investigator Prehistoric Archaeology	Principal Investigator Historical Archaeology	Architectural Historian	Principal Architectural Historian
Evaluate historical archaeological site (excavation <i>not</i> required)			* ₊		X ₊		
Evaluate prehistoric archaeological site		*		X			
Evaluate historical archaeological site (excavation required)			* ₊		X ₊		
Evaluate Native American TCP				X			
Evaluate non-Native American TCP					X ₊		X ₊
Evaluate built environment feature (ditches, roads, trails, RR grades)			* ₊		X ₊	* ₊	X ₊
Evaluate vernacular landscapes					X ₊	* ₊	X ₊
Evaluate buildings, structures (including bridges), objects, and districts						X	X
Evaluate designed landscapes (parks, formal gardens, etc.)						X	X
Evaluate historic-era sites (battlefields, treaty-signing sites, internment camps, etc.)					X ₊	X ₊	X ₊
Establish Environmentally Sensitive Areas (ESA) for archaeological sites (prehistoric or historical)		X	X	X	X		
Establish ESA for non-archaeological property				X ₊	X ₊		X
Conduct archaeological data recovery (prehistoric sites)		*		X			
Conduct archaeological data recovery (historical archaeological sites)			*		X		
Peer review archaeological studies with no properties identified		X	X	X	X		
Peer review archaeological studies with eligibility determinations (eligible or ineligible), ESAs, data recovery (prehistoric sites)				X			

TABLE 1 PQS LEVELS REQUIRED FOR ACTIONS TAKEN UNDER SECTION 106 PA AND 5024 MOU							
ACTION TAKEN UNDER SECTION 106 PA	PQS Level						
	Lead Archaeological Surveyor	Co-Principal Investigator Prehistoric	Co-Principal Investigator Historical	Principal Investigator Prehistoric Archaeology	Principal Investigator Historical Archaeology	Architectural Historian	Principal Architectural Historian
Peer review archaeological studies eligibility determinations (eligible or ineligible), ESAs, data recovery (historical archaeological sites)					X		
Peer review built environment studies and ESAs							X
Peer review Findings Of Effect (FOE) and Memoranda of Agreement (MOA)				X+	X+		X+
Review for DEBC approval: Historic Property Survey Reports to File and Review Historical Resource Compliance Reports to File <i>except</i> for No Historic Properties Affected with historic properties in the APEs	X	X	X	X	X	X	X
Review for DEBC approval: Historic Property Survey Reports to File-No Historic Properties Affected <i>with historic properties</i> in the APE				X	X		X
Review for DEBC approval: Historic Property Survey Reports to SHPO <i>except</i> for No Adverse Effect with Standard Conditions	X	X	X	X	X	X	X
Review for DEBC approval: Historic Property Survey Reports to SHPO for No Adverse Effect with Standard Conditions				X	X		X
Review FOEs and MOAs for DEBC approval				X	X	X	X

Key: **X** = PQS level(s) qualified to perform task
 * = PQS level(s) qualified to perform task with review from higher level
 + = Interdisciplinary collaboration *strongly* recommended

Note: Archaeological Crew Members may assist in archaeological surveys and excavations under the direction of a qualified Lead Archaeological Surveyor or higher

Table 2 below indicates what roles the different PQS staff levels are qualified to play in different types of archaeological studies.

TABLE 2 PQS LEVELS REQUIRED FOR ARCHAEOLOGICAL ROLES								
ACCEPTABLE QUALIFICATION LEVELS FOR EACH ROLE BY STUDY TYPE								
Role Played in Study	Survey	Extended Phase I - Prehistoric	Extended Phase I - Historical	Site Evaluation Prehistoric	Site Evaluation Historical	Data Recovery – Prehistoric	Data Recovery – Historical	Construction Monitoring
Crew Member	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H
Crew Chief	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H	2, 3P, 3H, 4P, 4H
Principal Investigator	2, 3P, 3H, 4P, 4H	3P, 3H, 4P, 4H	3H, 4H	4P	3H*, 4H	3P*, 4P	3H*, 4H	3P, 3H, 4P, 4H
Primary Author of Report	2, 3P, 3H, 4P, 4H	3P, 3H, 4P, 4H	3H, 4H	4P	4H	4P	4H	3P, 3H, 4P, 4H
Secondary Author of Report	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H	1, 2, 3P, 3H, 4P, 4H
Contract Coordinator	3P, 3H, 4P, 4H	3P, 3H, 4P, 4H	3P, 3H, 4P, 4H	3P, 4P	3H, 4H	3P, 4P	3H, 4H	3P, 3H, 4P, 4H

Key
 1 = Archaeological Crew Member
 2 = Lead Archaeological Surveyor
 3P = Co-Principal Investigator – Prehistoric Archaeology
 3H = Co-Principal Investigator – Historical Archaeology
 4P = Principal Investigator – Prehistoric Archaeology
 4H = Principal Investigator – Historical Archaeology
 * = PQS level(s) qualified to perform task with review from higher level

Example: Only individuals certified as a Co-Principal Investigator (Historical) or Principal Investigator (Historical) are qualified to serve as Principal Investigator at data recovery excavations at a historic archaeological site. Asterisk indicates that the Co-PI should be overseen by a PI.

Exhibit 2.1: Section 106 PA and PRC 5024 MOU Flow Charts

Section 106 PA Flow Chart

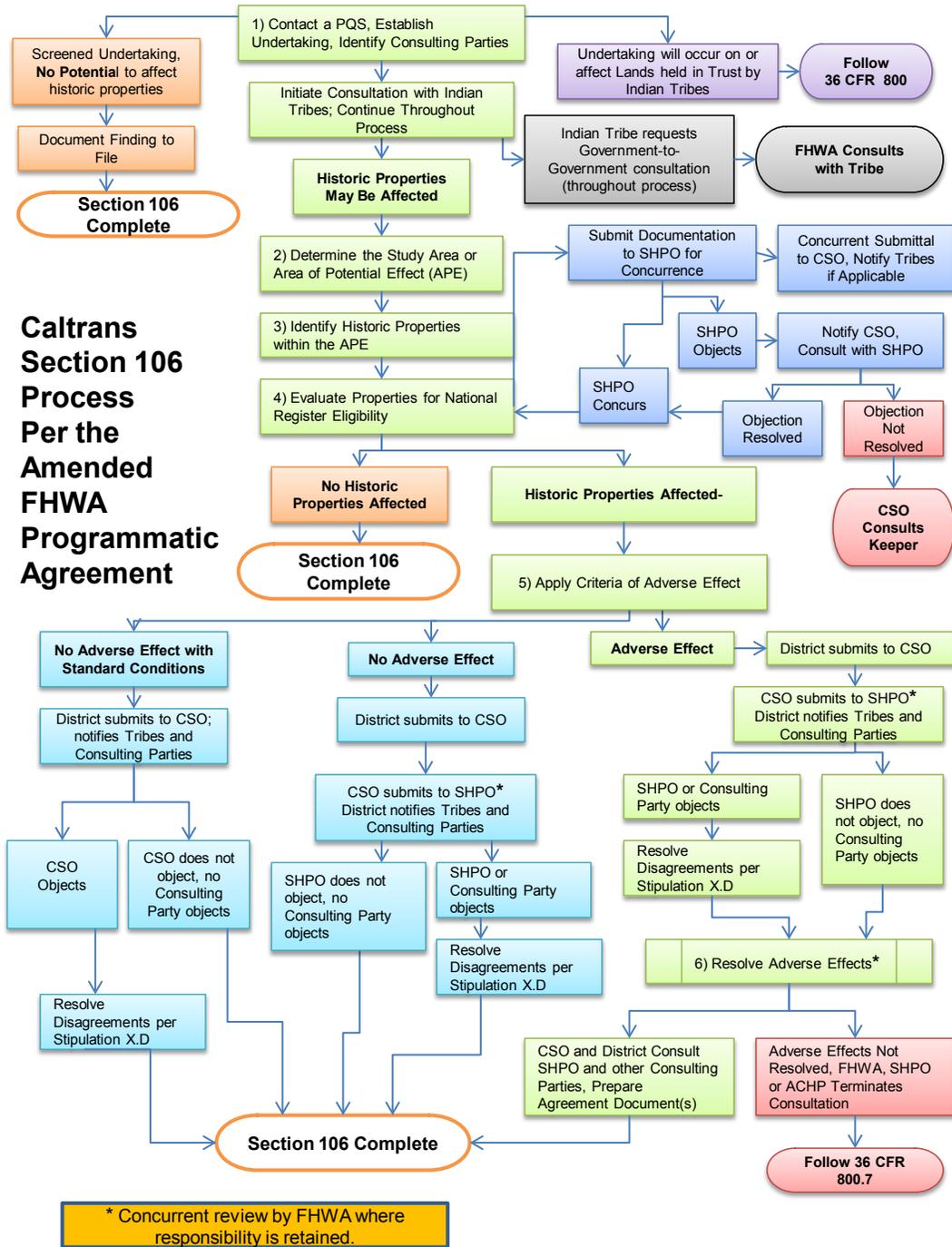
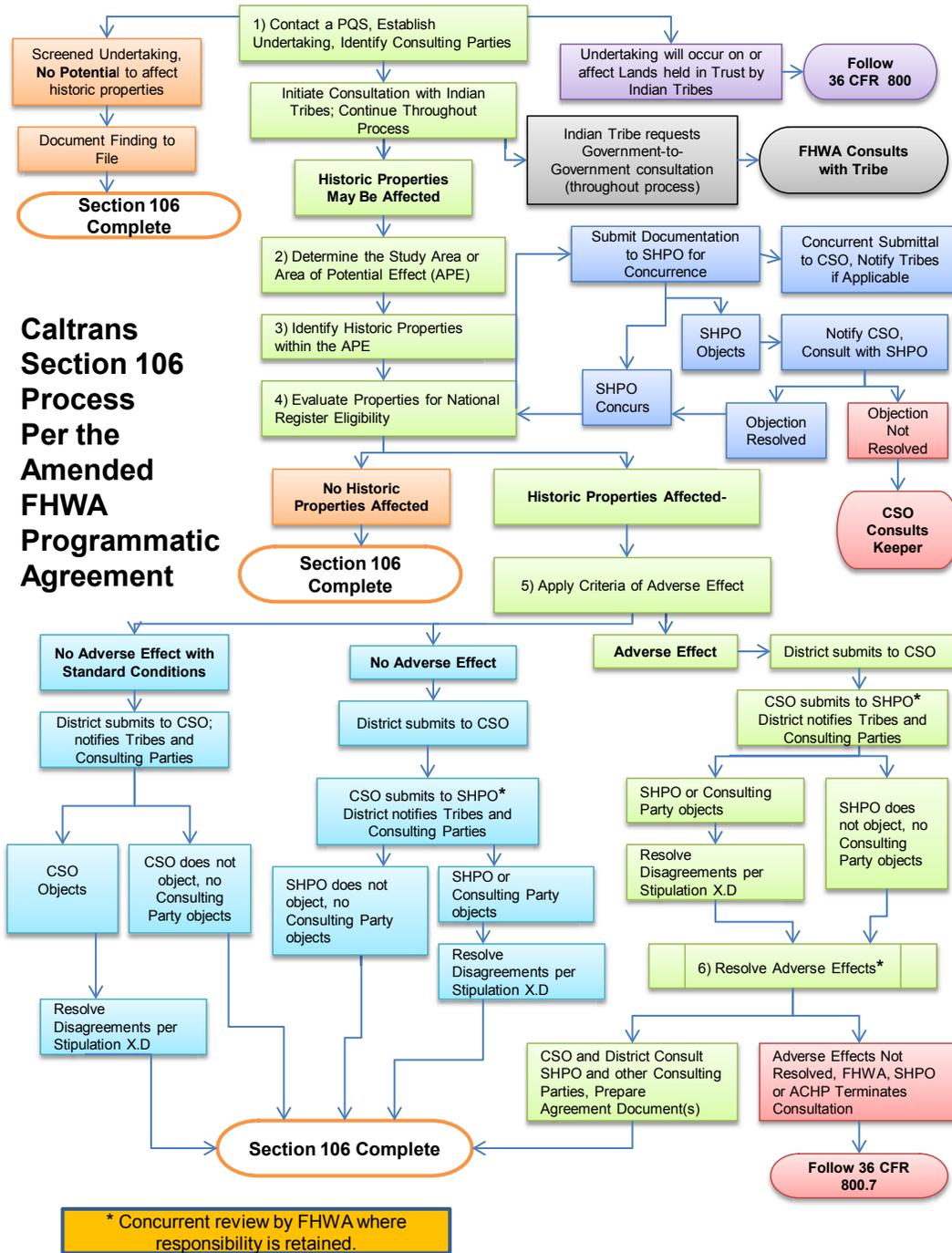


Exhibit 2.1: Section 106 PA and PRC 5024 MOU Flow Charts

Section 106 PA Flow Chart



PRC 5024 MOU Flow Chart

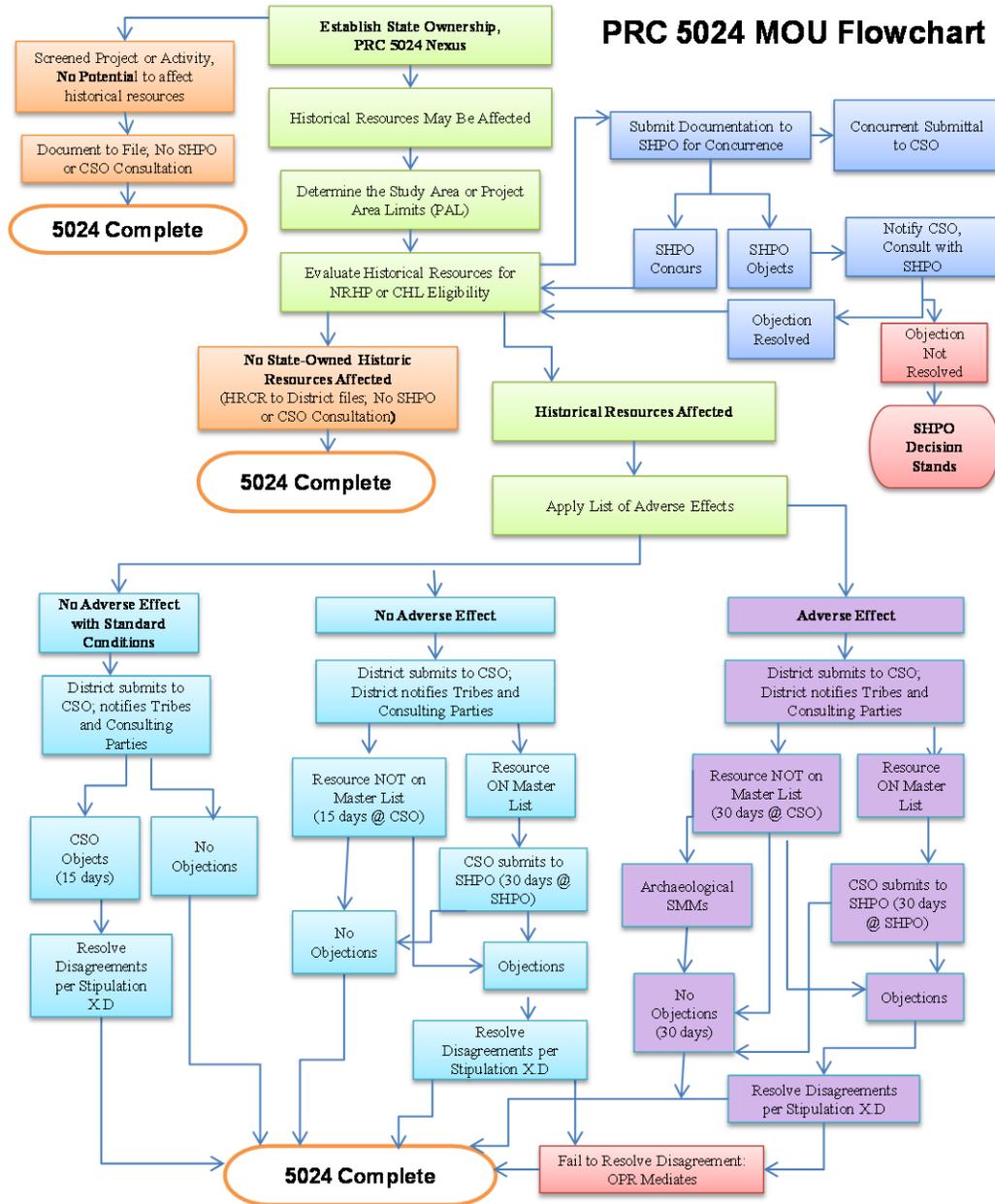


Exhibit 2.2: Concordances

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Exhibit 2.2: Concordances

Table 1: Existing Section 106 Regulations and the Section 106 Programmatic Agreement

The table below depicts the streamlined procedures afforded by the Section 106 Programmatic Agreement (Section 106 PA) between the Federal Highway Administration (FHWA), Caltrans and the California State Historic Preservation Officer (SHPO), effective January 1, 2014, and incorporating NEPA Assignment pursuant to 23 USC 326 and 327. FHWA takes the role of Caltrans Headquarters Cultural Studies Office (CSO) on non-Assigned undertakings. The Section 106 PA is [Exhibit 1.1](#) of the Caltrans Standard Environmental Reference Volume 2-Cultural Resources ([SERv2](#)).

36 CFR 800	Existing Regulation	Section 106 PA under NEPA Assignment
* PQS = Professionally Qualified Staff are Caltrans employees who meet specific education and experience requirements as described in Section 106 PA Attachment 1. ** For Non-Assigned projects, CSO will concurrently notify FHWA and FHWA shall be involved in resolution of adverse effects.		
800.1	Requires FHWA to take into account effect of its undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment.	Caltrans is federal Agency Official.
800.2(a)	FHWA is legally responsible for Section 106 compliance.	Caltrans is legally responsible, except for non-assigned projects specified in the NEPA Assignment MOU.
800.2(a)(1)	All actions taken by employees or contractors who meet the Secretary of the Interior's Professional Qualifications Standards.	No change; see Stipulation III and Attachment 1.
800.2(a)(3)	FHWA responsible for ensuring documents prepared by non-federal agencies meet applicable standards and guidelines.	Caltrans District PQS* assigned responsibility for quality assurance; see Stipulation III and XVIII.
800.2(c)(2)(i)	FHWA consults with THPO when on tribal lands.	Section 106 PA does not apply on tribal lands; CSO acts in role of FHWA under NEPA Assignment.
800.2(c)(5)	Individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties.	No change.

36 CFR 800	Existing Regulation	Section 106 PA under NEPA Assignment
<p>* PQS = Professionally Qualified Staff are Caltrans employees who meet specific education and experience requirements as described in Section 106 PA Attachment 1. ** For Non-Assigned projects, CSO will concurrently notify FHWA and FHWA shall be involved in resolution of adverse effects.</p>		
800.2(d)(1-2)	FHWA solicits public comment and involvement.	Caltrans Districts assigned responsibility; see Stipulation V and VI.
800.3(a) 800.3(a)(1)	FHWA determines whether proposed action is an undertaking, and if so, whether it has the potential to affect historic properties. If not, FHWA has no further obligations under Section 106.	Caltrans District PQS determine whether Screened undertakings are exempted from further review under Section 106; see Stipulation VII and Attachment 2.
800.3(e)	FHWA solicits public comment and involvement.	Caltrans Districts solicit public comment and involvement; see Stipulation V and VI.
800.3(f)	Individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties.	No change.
800.4(a)(1-4) 800.4(b)	FHWA determines and documents the APE and identifies historic properties within that APE.	Caltrans District PQS determine the APE with Project Manager. See Stipulation VIII.A and B and Attachment 3.
800.4(b)(2)	FHWA may use phased approach to identification and evaluation when alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted.	Caltrans CSO approves phasing; see Stipulation XII.
800.4(c)(1-2)	FHWA evaluates historic significance of properties within the APE using National Register criteria.	Caltrans District PQS make or approve determinations. Caltrans may exempt certain property types from evaluation; see Stipulation VIII.C(1) and Attachment 4. Caltrans District may consider archaeological properties as eligible for the National Register without evaluation when the properties for purposes of the project only are protected through the establishment of ESAs and SHPO is not consulted; see Stipulation VIII.C(3). Upon CSO approval, Caltrans District may consider properties other than archaeological sites as eligible for the National Register without evaluation for purposes of the project only and SHPO is not consulted; see Stipulation VIII.C(4).

36 CFR 800	Existing Regulation	Section 106 PA under NEPA Assignment
<p>* PQS = Professionally Qualified Staff are Caltrans employees who meet specific education and experience requirements as described in Section 106 PA Attachment 1. ** For Non-Assigned projects, CSO will concurrently notify FHWA and FHWA shall be involved in resolution of adverse effects.</p>		
800.4(d)	FHWA determines whether historic properties may be affected.	<p>Caltrans District PQS make or approve findings; see Stipulation IX.</p> <p>A Finding of No Historic Properties Affected is filed in the Caltrans District and SHPO is not consulted; see Stipulation IX.</p>
800.5(a)(1)	FHWA applies the Criteria of Adverse Effect.	Caltrans District PQS applies criteria; see Stipulation X.A.
800.5(a)(2)(iii)	<p>Removal of archaeological data is an adverse effect, even if conducted in accordance with the Secretary's of the Interior's standards. Noted in preamble to ACHP's revised 36 CFR part 800 regulations in Section IV, "Description of Meaning and Intent of Specific Sections," published in the <i>Federal Register</i>, volume 65, No. 239, Tuesday, December 12, 2000, Rules and Regulations, page 77720.</p>	<p>Data recovery remains an adverse effect. When project effects are limited to archaeological properties listed in or eligible for the NRHP under Criterion D only, Caltrans District submits data recovery plan to CSO, SHPO and consulting parties. See Stipulation X.C and Attachment 6.</p>
800.5(a)(3)	FHWA may use a phased approach in applying criteria of adverse effect when alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted.	Caltrans CSO approves phasing; see Stipulation XII.
800.5(b)	<p>FHWA proposes a finding of No Adverse Effect; consults with SHPO and other consulting parties. If SHPO and other parties agree with finding, project may proceed Under 800.5(a)(2)(ii), if a property is restored, rehabilitated or otherwise changed pursuant to the Secretary of the Interior's Standards, the project is not considered to have an adverse effect.</p> <p>See preamble to ACHP's 36 CFR 800 regulations, Section IV, "Description of Meaning and Intent of Specific Sections," published in the <i>Federal Register</i>, volume 65, No. 239, Tuesday, December 12, 2000, Rules and Regulations, page 77720.</p>	<p>Caltrans Districts may impose Standard Conditions to avoid adverse effects (FNAE-SCs) for certain maintenance, repair and rehabilitation projects through use of the <i>Secretary of the Interior's Standards for the Treatment of Historic Properties</i> (FNAE-SC-SOIS), or when properties can be protected by an ESA (FNAE-SC-ESA).</p> <p>Caltrans Districts submit documentation of finding to CSO and other consulting parties; SHPO is not consulted; if CSO does not object within 15-days of receipt the project is not subject to further review; see Stipulation X.B.1 and Attachment 5.</p>

36 CFR 800	Existing Regulation	Section 106 PA under NEPA Assignment
<p>* PQS = Professionally Qualified Staff are Caltrans employees who meet specific education and experience requirements as described in Section 106 PA Attachment 1. ** For Non-Assigned projects, CSO will concurrently notify FHWA and FHWA shall be involved in resolution of adverse effects.</p>		
		<p>For FNAE findings <i>without</i> Standard Conditions, Caltrans districts submit the findings to CSO; CSO consults with SHPO. See Stipulation X.B.2 and Attachment 5.**</p>
<p>800.5(c)(2)(i) 800.5(d)(2)</p>	<p>SHPO or other consulting party disagrees with FHWA's No Adverse Effect finding, or an Adverse Effect cannot be avoided.</p>	<p>CSO assigned this responsibility. See Stipulation X.D.**</p>
<p>800.6(a) 800.6(b)(1)</p>	<p>FHWA consults with SHPO to resolve adverse effects.</p>	<p>Caltrans CSO, with assistance from Caltrans Districts, consults with SHPO to resolve adverse effects. . See Stipulation XI.**</p>
<p>800.6(b)(2) 800.6(c)</p>	<p>When ACHP participates in resolution of adverse effects, FHWA consults with SHPO, ACHP, and consulting parties; if all parties agree on resolution, an MOA is executed.</p>	<p>Essentially no change. If CSO, SHPO, and Caltrans districts cannot resolve adverse effects, ACHP is invited to participate. See Stipulation XI.E. **</p>
<p>800.7 800.7(a)</p>	<p>Failure to resolve adverse effects; termination of consultation.</p>	<p>No change; see Stipulation XI.E.**</p>
<p>800.7(c)(4)</p>	<p>ACHP comments on disagreements between FHWA and consulting parties regarding assessment of effects.</p>	<p>Essentially no change. Alternate process developed for ACHP participation due to 9/18/01 court decision invalidating section 36 CFR 800.5(c)(3). See Stipulation X.D.</p>
<p>800.11</p>	<p>Documentation standards</p>	<p>Caltrans District PQS shall approve all documentation that supports findings and determinations made under the Section 106 PA and will be consistent with 36 CFR 800.11; see Stipulation XVIII.</p>
<p>800.11(c)(1 and 3)</p>	<p>FHWA solicits public comment and involvement</p>	<p>Caltrans District PQS solicits public involvement; see Stipulation V and VI.</p>
<p>800.13(b) 800.13(b)(3) 800.13(c)</p>	<p>Planning for post-review discoveries; FHWA takes action to avoid adverse effects to property(ies), notifies SHPO, consulting parties and ACHP within 48 hours of discovery, can assume property(ies) to be eligible for the National Register</p>	<p>Caltrans District complies with 36 CFR 800.13(b)(3) and 800.13(c); notifies CSO, SHPO, and other consulting parties within 48 hours; requests response from notified parties within 72 hours; takes any comments into account, and may carry out appropriate action; see Stipulation XV.</p>

Table 2: Section 106 Programmatic Agreement and PRC 5024 Memorandum of Understanding

The table below depicts the concordance between the Section 106 PA procedures and, for state-owned historical resources, the PRC 5024 Memorandum of Understanding (5024 MOU) between Caltrans and the State Historic Preservation Officer pursuant to PRC 5024 and the Governor’s Executive Order W-26-92. Caltrans CSO was delegated some of SHPO’s responsibilities under the 5024 MOU. The 5024 MOU is [Exhibit 1.2](#) of the [SERv2](#). Streamlining measures in the 5024 MOU are highlighted in **green text**.

STIPULATION	SECTION 106 PA	PRC 5024 MOU
Applicability	Applies to Federal-aid Highway program funded projects.	Applies only when State-owned cultural resources may be affected.
Definitions	36 CFR 800.16	<p>Master List of Historical Resources (Master List) clarified. Does not include:</p> <ul style="list-style-type: none"> • non-structural and archaeological resources determined NRCHP/CHL eligible • Any resource assumed eligible for purposes of undertaking project or activity. <p>Master List includes:</p> <ul style="list-style-type: none"> • All NRHP/CHL listed resources, including archaeological, structural, and non-structural resources. • All NRHP/CHL determined eligible buildings and structures.
PQS	Attachment 1	Same.
Consultation with Tribes	Explains Caltrans role	Not required under PRC 5024; Caltrans committing to consultation
Participation of other parties	Explains Caltrans role	Not required under PRC 5024; Caltrans committing to consultation
Delegation of actions	Distinguishes District from CSO roles	Same. CSO has additional corporate responsibilities.
Screened Undertakings	Attachment 2	Same (Screened Projects/Activities instead of Undertakings)
Identification & Evaluation	<p>APE = Attachment 3 Identification = PQS determines reasonable level of effort. Evaluation = Districts consult with SHPO; SHPO has 30 days to comment.</p>	<p>PAL = Attachment 3: Same (Project Area Limits instead of APE) Identification: Same Evaluation: Same</p>
	Assumption of eligibility approved by CSO	Same
Findings of Effect	No Historic Properties Affected: notify SHPO when in consultation on eligibility or stays in District files	Same (called No State-owned Historical Resources Affected)

STIPULATION	SECTION 106 PA	PRC 5024 MOU
Assessment of Effects	Apply 36 CFR 800.5 criteria	Apply List of Adverse Effects at 5024.5(a)
FNAE w/ SC	District to CSO; CSO has 15 days to object	Same Added transfers/relinquishments as a Standard for CLG designated resources
FNAE	District to CSO; CSO to SHPO; 30 days at SHPO	NOT on the Master List = District to CSO, CSO has 15 days to object. No SHPO consultation. On Master List = District to CSO, CSO to SHPO. SHPO has 30 days to object.
FAE – Standard Mitigation Measures (SMM)	Not Applicable	For archaeological sites only. Follow Attachment 6: NOT on the Master List = District to CSO, CSO has 30 days to object. No SHPO consultation.
FAE	District to CSO; CSO to SHPO; SHPO has 30 days to object. Follow Attachment 6 for archaeological sites.	NOT on the Master List = District to CSO, CSO has 30 days to object. No SHPO consultation. On Master List = District to CSO, CSO to SHPO. SHPO has 30 days to object.
Resolution of Effects	MOA with SHPO	Mitigation of Effects (instead of Resolution) No MOA, can be combined with Assessment of Effects package in HRCR. Review times concurrent with FAE.
Phasing	Subject to CSO Approval	Same
Native American Remains and Curation	Caltrans policy is to curate.	Same
Post Review Discoveries	District notifies parties, consults on measures	Same
Emergencies	Adds District Director	Same
Transfers / Relinquishments	Not applicable	See table below
Training	CSO certifies. New staff take PA PQS training.	Same. CSO will add a module on the MOU to the PA PQS training.
Resolving Disagreements	Eligibility: Keeper of NRHP Effects: ACHP mediates Overall Program: ACHP involved	Eligibility: SHPO has final say Effects: OPR mediates Overall Program: SHPO may terminate MOU.
Admin	Exclusion Provision, Annual Reporting, Termination, etc.	Same

Table 3: PRC 5024 Memorandum of Understanding Transfers and Relinquishments

The table below depicts the concordance between the Section 106 PA procedures and, for state-owned historical resources, the PRC 5024 Memorandum of Understanding (5024 MOU) between Caltrans and the State Historic Preservation Officer pursuant to PRC 5024 and the Governor’s Executive Order W-26-92. Caltrans CSO was delegated some of SHPO’s responsibilities under the 5024 MOU. The 5024 MOU is [Exhibit 1.2](#) of the [SERv2](#). Streamlining measures in the 5024 MOU are highlighted in **green text**.

TRANSFERS / RELINQUISHMENTS OF STATE-OWNED CULTURAL RESOURCES*		
Effect Finding	Appropriate When	Documentation
No State-owned Historical Resources Affected	<ul style="list-style-type: none"> No cultural resources present, or only exempt resources Previously determined ineligible Not previously evaluated ineligible resources: Concurrent District HRCR to SHPO for 30-day eligibility consultation. Transfer to federal or state agency. 	HRCR to District File; Copy CSO No SHPO Consultation (unless on eligibility)
FNAE – Standard Condition: CLG Designation	CLG designated historical resource:	District HRCR to CSO; CSO has 15 days to object
FNAE	Historical resources designated by non-CLG local agency:	District HRCR to CSO, CSO to SHPO. SHPO has 30 days to object.
FNAE or FAE 5024 MOU Stipulation X	All other relinquishments involving state-owned historical resources.	NOT on the Master List = District HRCR to CSO, CSO has 30 days to object. No SHPO consultation. On Master List = District HRCR to CSO, CSO to SHPO. SHPO has 30 days to object.
* For all transfers or relinquishments, District PQS notify SHPO of ownership change when transfer is complete.		

Exhibit 2.3: Time and Effort Required for Cultural Resources Compliance

The time and effort required to complete cultural resources compliance will vary greatly, depending on the nature of the project and the number and types of resources that may be impacted by it.

The table below indicates potential requirements in person-hours for the major activities in the Work Breakdown Structure (WBS)¹, based primarily on the Caltrans “Workload Estimating Norms” and the Central Region Environmental Division’s September 2009 “Workload Estimating Norms, Based on WBS 10.1”.² Also included are estimates of standard person-hour requirements and elapsed schedule time for some activities, based on Caltrans' Standard Environmental Reference Volume 2 - Cultural Resources ([SERv2](#)). In estimating schedule time, it should be noted that some activities could be done at the same time and can occur in different project phases.

ESTIMATED PREPARATION TIME (DOES NOT INCLUDE EXTERNAL AGENCY REVIEW TIME)				
WBS Task ID	Activity / Product	Sched. Months	Est. Hours Standard	Est. Hours Range
150.20.30	Conduct Initial Records/Literature Search	1 month	20 hours	0 – 100 hours
150.20.30	Conduct Initial Archaeology Study	0 - 2 months	50 hours	10-100 hours
150.20.30	Conduct Initial Built Environment Study	0 - 2 months	50 hours	10 –100 hours
150.20.70	Conduct Initial Native American Coordination	0 - 2 months	50 hours	10 -100 hours
165.20.05.05	Prepare Preliminary APE Map	0 – 2 months	48 hours	0 –80 hours
165.20.05.10	Conduct Native American Consultation	1 month	80 hours	0 – 240 hours
165.20.05.15	Conduct Records/Literature Search	1 month	30 hours	0 – 80 hours
165.20.15	Prepare Screened Undertaking Memo	1 month	8 hours	0 - 10 hours
165.20.05.20	Conduct Field Survey	1 month	80 hours	0 - 600 hours
165.20.05.25	Conduct Archaeological Survey	1 - 3 months	450 hours	0 – 1200 hours

¹ WBS codes are used in the delivery of capital outlay projects; the WBS is a deliverable-oriented grouping of project elements that organizes and defines the total scope work of a project. Each descending level represents an increasingly detailed definition of a project component or phase. Project components or phases may be products or services.” (Caltrans Workplan Standards Guide, Release 11.0, 2014, p.2.)

² The tool is available only to Caltrans staff on the Caltrans Intranet.

ESTIMATED PREPARATION TIME (DOES NOT INCLUDE EXTERNAL AGENCY REVIEW TIME)				
WBS Task ID	Activity / Product	Sched. Months	Est. Hours Standard	Est. Hours Range
165.20.05.99	Prepare ASR with no sites present	1.5 months	40 hours	0 -1070 hours
165.20.10	Conduct Extended Phase I (XPI)	6 months	360 hours	0 -1576 hours
165.20.15	Prepare ASR with sites present	6 months	300 hours	0 -1070 hours
165.20.20	Conduct Built-Environment Resources	1 - 3 months	360 hours	0 - 720 hours
165.20.20.15	Prepare Historical Resources Evaluation Report (HRER)	1 - 2 months	160 hours	0 - 320 hours
165.20.20.20	Prepare HRER, Bridge Evaluation	1 - 3 months	20 hours	0 -320 hours
165.20.15	Conduct Phase II (PII)	12 months	1200 hours	0 -8880 hours
165.20.25.05	Prepare Final APE Map(s)	1 month	16 hours	8 - 240 hours
165.20.25.15	Prepare HPSR / HRER	1 - 2 months	140 hours	8 - 300 hours
165.20.25.20	Prepare FNAE with Standard Conditions	1 - 2 months	80 hours	8 - 160 hours
165.20.25.20	Prepare FNAE without Standard Conditions	1 - 3 months	320 hours	8 - 400 hours
165.20.25.20	Prepare Finding of Adverse Effect (FAE) with Standard Mitigation Measures ³ (for PRC 5024 only)	1 - 3 months	80 hours	8 - 160 hours
165.20.25.20	Prepare FAE	3 - 6 month	750 hours	0 -800 hours
165.20.25.30	Prepare MOA	1.5 to 24 months	120 hours	0-1240 hours
165.20.25.25	Prepare Data Recovery Plan/Treatment Plan	12 months	640 hours	80-1400 hours
165.25.10	Prepare Section 4(f) Determination	1 - 3 months	80 hours	30 -500 hours
235.05.05.05	Conduct Historic Built Environment Mitigation	15 months	80 hours	40 -1000 hours
235.05.10	Conduct Phase III (PIII)	15 months	160 hours	0 -1768 hours

The WBS codes are specific to project phases. As depicted in the table, the most common codes for cultural resources activities begin with 150, 165 and 235, which correlate to the following project phases:

- Phase K—Project Initiation: WBS Code 150 and its number extensions, e.g. 150.20, 150.20.30 etc. (develop project initiation document).
- Phase 0—Project Approval and Environmental Document: WBS Code 165 (perform environmental studies and prepare environmental document).
- Phase 1—Plans, Specifications and Estimates (PS&E): WBS Code 235 (mitigate environmental impacts).

³ Used only for state-owned archaeological resources that have been determined or assumed eligible for the National Register of Historic Places or for registration as California Historical Landmarks and that are not on the Master List of Historical Resources.

Exhibit 2.4: Sequential Order of Cultural Resource Activities

The Table below suggests which cultural resources activities generally must occur sequentially, and which can be done concurrently.

SEQUENTIAL ORDER OF ACTIVITIES	
Preliminary Cultural Input	
Archaeological Survey	HRER and/or Bridge Evaluation
XPI, HRER for historical archaeology	
HPSR, HRCR	
FOE (No Historic Properties Affected, FNAE-SC-ESA, FNAE-SC-SOIS, FNAE-NoSC, FAE), MOA	
Section 4(f) Determination	
Heritage (HABS / HAER / HALS) Recordation, Mitigation, PIII, Monitoring	

Exhibit 2.5: Screened Undertaking Memo Format and Content Guide

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Exhibit 2.5: Screened Undertaking Memo Format and Content Guide

Introduction

Certain undertakings by their very nature have little potential to affect historic properties. The Section 106 Programmatic Agreement ([Section 106 PA](#)) under [Stipulation VII](#) and [Attachment 2](#) allows Caltrans to streamline the process by exempting certain classes of undertakings from Section 106 review.

For projects and activities involving state-owned cultural resources, the Public Resources Code 5024 Memorandum of Understanding ([5024 MOU](#)) under [Stipulation VII](#) and [Attachment 2](#) also allows Caltrans to streamline the PRC 5024 compliance process by exempting certain projects and activities from review. Caltrans follows the procedure outlined in this exhibit, but the memo is called the “Screened Project/Activity Memo.”

The Screened Undertaking Memo is the summary document Caltrans uses to document that that Caltrans Professionally Qualified Staff (PQS) has reviewed an individual undertaking and determined that it exempt from further review because there is no potential to affect historic properties. The Screened Undertaking is used to screen both state and Local Assistance federally-funded undertakings. It may also be used to screened state-only projects for compliance with the California Environmental Quality Act (CEQA).

[Chapter 2 Section 2.3.2](#) Screened Undertakings discusses screening process while [Section 106 PA/5024 MOU](#) Attachment 2 outlines the process and lists the 30 classes of undertaking that may be screened, including those for historic bridges and tunnels. Only the specific actions on the list qualify for screening, but an undertaking comprised of several actions on the list can be screened. As with all other actions under the Section 106 PA and the 5024 MOU, a Caltrans PQS must conduct the screening process.

MEMO FORMAT

- Name of Senior Planner or Office Chief responsible for environmental documentation
- Project description
- Cite the Section 106 PA or 5024 MOU as the authority to screen
- Name and PQS level of staff who conducted screening
 - Archaeologist
 - Architectural Historian
- Background research justifying screening , e.g.:
 - Literature search
 - Field visit
- Applicable screening class(es)
- Finding that Section 106 is complete
- Staff contact information
- Environmental Branch Senior or Office Chief signature
- Attachments, if needed

Information to Include in Screened Undertaking Memo

Caltrans PQS staff prepare the screening memo. As appropriate, the memo should be addressed to the senior planner responsible for the overall environmental document, either in the District's Environmental Division/Branch or in the District's Local Assistance Division/Branch, to the memo preparer's supervisor, or to the district staff-level environmental planner.

Include the following basic information in the memo:

- Section 106 Compliance Screened Undertaking, or CEQA and/or PRC 5024 compliance, and name of project in the subject line.
- Who made the request to review for screened activities, date of request and what materials were provided.
- Description of the undertaking. Be as specific as possible so if the project changes, it will be clear what activities were and were not previously screened.
- Cite the Section 106 PA as the authority for screening the project undertaking or for CEQA and PRC 5024 compliance, the use of 5024 MOU Attachment 2 as the guide.
- Name the PQS who did the screening, and that person(s) PQS level.
- Describe any research and investigation done as part of the screening process, such as literature searches, document and map reviews, field visits, or consultation with knowledgeable individuals, and the results.
- State which of the 30 screened classes apply; see [Section 106 PA/5024 MOU Attachment 2](#).
- State that the undertaking is exempt from further review and Section 106, CEQA Cultural Resources component, or PRC 5024 is complete.
- State that if the undertaking changes or additional locations are added that Section 106, CEQA or PRC 5024 may need to be reopened.
- Provide PQS staff contact information for any questions.
- Include attachments as appropriate.

When addressed to the senior planner responsible for the overall environmental document in the District's Environmental Division/Branch or in the District's Local Assistance Division/Branch, the District Environmental Branch Chief signs the memo. When addressed to the PQS staff's supervisor, the PQS staff sign(s) the memo.

Sample Screened Undertaking Memos

Below are examples of Screened Undertaking Memos for a state project and for a Local Assistance project.

State Project Example

State of California
Memorandum

State Transportation Agency

To: WARD CLEAVER, Chief
District 14 Office of Environmental Analysis

Date: January 3, 2014
File: 14-SAW-17
PM 22.3 EA 1000000068
Off Ramp and Sidewalk Project

Attention: FRED RUTHERFORD
Senior Environmental Planning

From: JASON HARRISON, Chief
East Region Environmental Management Branch

Section 106 finding (required language) and project name

Project description details

Subject: **Section 106 Compliance—Screened Undertaking** for SAW-17 Off Ramp and Sidewalk Project at Mayfield and Curtis Streets in the City of Beale Heights, Sawyer County

Caltrans proposes to reconstruct the curb, curb ramp, and sidewalk at the southwest corner of Mayfield and Curtis Streets that are adjacent to the SAW-17 off ramp in the City of Beale Heights. All work for this federally-funded project will take place within the existing state, county and city right-of-way, and no new right-of-way will be required for the project.

This paragraph contains required Section 106 and Section 106 PA language. NEPA Assignment is incorporated in the 2014 agreement and no longer needed in correspondence when using the Section 106 PA. Use the full citation in the correspondence when first mentioned.

This review is intended to ensure that this undertaking is carried out in a manner consistent with Caltrans' regulatory responsibilities under **Section 106 of the National Historic Preservation Act (36 CFR Part 800)** and pursuant to the **January 2014 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 National Historic Preservation Act (Section 106 PA)**.

Name and PQS level of staff making determination

Caltrans District 14 Professionally Qualified Staff (PQS) **Anuva Gupta**, Principal Architectural Historian and **Rusty Wrangler**, Principal Investigator, **Prehistoric Archaeology**, conducted a review of cultural resources sensitivity for the above referenced undertaking based on the materials you have provided (Preliminary Environmental Studies (PES) form, Field Review form, and plan sheets from Frank Hannaford, dated December 19, 2013), as well as District 14's Cultural Resources Database (CCRD), files maps and photographs.

Materials provided and by whom

Philip Marlow
January 3, 2014
Page 2

Research review and results

Based on this review, the undertaking, as currently proposed, has **no potential to affect historic properties** eligible for or listed in the National Register of Historic Places. The work conforms to the following “classes of screened undertakings” listed in the Section 106 PA Attachment 2:

Applicable screened class(es) with brief description

- Class 5** – Minor modification of on/off ramps
- Class 11** – Minor modification of curbs and sidewalks
- Class 14** – Alteration of roadway markings

Required concluding language that Section 106 is complete.

As a result, this undertaking is **exempt from further review**, no additional archaeological or built environment studies are required at this time and the **Section 106 compliance process, CEQA cultural resources component and PRC 5024 compliance are complete.**

Required caveat that Section 106 may reopen if project undertaking changes.

Please note that this assessment could change and additional studies may be required if project change. If previously unidentified cultural materials are unearthed during construction, work shall be halted in that area until a qualified archaeologist can assess the significance of the find.

Include contact information.

If you have any questions about the content of this memo or project-related items, please contact **Ms. Gupta** t 555-555-5554 and Anuya.Gupta@dot.ca.gov or **Mr. Wrangler** at 555-555-5555 or Rusty.Wrangler@dot.ca.gov.

- c: **Carmen Sternwood, D14 HRC**
D14 Project file

In addition to the project file, copy the District HRC.

Local Assistance Example

State of California
Memorandum

California State Transportation Agency

To: PHILLIP MARLOW, Chief
District 14 Local Assistance

Date: January 3, 2014
File: 14-SAW
XXX 5555555
Signalization of Mason Way and
Main Street

Attention: BRUCE SOMERSET
Senior Environmental Planning

From: JASON HARRISON, Chief
East Region Environmental Management Branch

Section 106 finding (required language) and project name

Subject: ~~Section 106 Compliance~~—Screened Undertaking for Signal Light Installation Project at the intersection of Mason Way and Main Street, Sawyer County

This paragraph contains required Section 106 and Section 106 PA language. NEPA Assignment is incorporated in the 2014 agreement and no longer needed in correspondence when using the Section 106 PA. Use the full citation in the correspondence when first mentioned.

This review is intended to ensure that this undertaking is carried out in a manner consistent with Caltrans' regulatory responsibilities under **Section 106 of the National Historic Preservation Act (36 CFR Part 800)** and to provide project oversight **according to the January 2014 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 National Historic Preservation Act (Section 106 PA).**

Project description details

The proposed undertaking includes the following activities:

- 1) Installation of a light pole in each of the four corners of the intersection, each requiring the excavation of a hole measuring approximately 6' x 6' in width by 8' deep;
- 2) Installation of 5 signposts at different locations at the intersection, each requiring two holes measuring approximately 1' x 1' in width and 4' in depth; and
- 3) A total of approximately 30 feet of trenching (approximately 2' in width by 3' in depth) to connect the new signal lights to existing utilities.

Name and PQS level of staff making determination

Materials provided and by whom

Rusty Wrangler, in his capacity as Caltrans Professionally Qualified Staff (PQS) **Principal Investigator in Prehistoric Archaeology**, conducted a review of the cultural resources sensitivity of the above referenced undertaking based on the materials you have provided (Preliminary Environmental Studies (PES) form, Field Review form, and plan sheets from Frank Hannaford, dated December 22, 2013).

Philip Marlow
January 3, 2014
Page 2

Research review and results

The cultural resources review included a Regional Information Center records search, review of District 14 files, and a visit to the project location on December 27, 2013. This review indicated:

- A. There are no known potential historic properties in the undertaking's Area of Potential Effects (APE);
- B. The location has low sensitivity for archaeological resources;
- C. The intersection and surrounding areas have been heavily disturbed and re-contoured during previous construction activities; and (4) the buildings located at the intersection are all of new construction, and include a gas station, a hotel, and two fast-food restaurants.

Required Section 106 finding and Section 106 PA Stipulation.

Based on this review, the undertaking, as currently proposed, has **no potential to affect historic properties** eligible for or listed in the National Register of Historic Places, and is **exempt from further review** pursuant to the Section 106 PA **Stipulation VII and Attachment 2**. The work conforms to the following "classes of screened undertakings" listed in the Section 106 PA Attachment 2:

Applicable screened class(es) with brief description

Class 20 - Modification of traffic control systems or devices utilizing existing infrastructure, including installation, removal, or modification of regulatory, warning, or informational signs or signals.

Required concluding language that Section 106 is complete.

Required caveat that Section 106 may reopen if project undertaking changes.

As a result, this undertaking is **exempt from further review**, no additional studies are required and the **Section 106 compliance process is complete**.

Please note that **this assessment could change if there are any changes to the proposed activities, or if additional locations are added**. If there are any such changes to the proposed undertaking, an additional review by the cultural resources unit will be required.

Include contact information.

If you have any questions, please do not hesitate to contact **Mr. Wrangler** at (555) 555-5555 or Rusty.Wrangler@dot.ca.gov.

c: **Carmen Sternwood, D14 HRC**
D14 Project file

In addition to the project file, copy the District HRC.

Exhibit 2.6: Historic Property Survey Report Format and Content Guide

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Exhibit 2.6: Historic Property Survey Report Format and Content Guide

Introduction

The Historic Property Survey Report (HPSR) is the summary document Caltrans uses as its consultation and decision-making document. Under [Section 106 PA](#)¹, it documents delineation of the Area of Potential Effects (APE), completion of the identification phase, completion of National Register of Historic Places (NRHP) eligibility evaluation of the resources within the project APE, and, when relevant, a Finding of No Historic Properties Affected or No Adverse Effect with Standard Conditions. Caltrans uses it to request SHPO's concurrence on determinations of eligibility or ineligibility for properties within the project Area of Potential Effects (APE) that were evaluated as part of the project. It also is used to document Caltrans findings when there are no historic properties within the project APE, no historic properties affected, or no adverse effect with standard conditions, as explained below.

NARRATIVE HPSR FORMAT

- Title page
- Summary of Findings
- Project Description
- Summary of Identification Efforts
- Public Participation
- Properties Identified
- Findings
 - HPSR to District File
 - HPSR to SHPO or
 - HPSR to CSO
- No Historic Properties Affected Finding (as appropriate)
- Findings for State-owned Properties
- CEQA Considerations
- Exhibits
- Maps
- Back-up Reports
- Other Attachments

Don't forget the transmittal letter for HPSRs to SHPO, THPO or CSO.

Use the "HPSR to SHPO" (State Historic Preservation Officer) whenever the findings include resources within the APE that have been evaluated as part of the project, regardless of the eligibility determination.

Caltrans uses the "HPSR to District File" section when there are no cultural resources (regardless of eligibility) within the APE. Note, however, that the "HPSR to District File" may be used when Keeper previously made a determination, or SHPO

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.

previously concurred on a property's eligibility or ineligibility, the determination is still valid, attach the Keeper or SHPO letter. Caltrans uses the "HPSR to SHPO" section to consult with SHPO on the eligibility of properties while the "HPSR to District File" documents a decision made in-house as allowed by the Section 106 PA.

The "HPSR to District File" also may document a Finding of No Historic Properties Affected, while an HPSR to CSO² documents a Finding of No Adverse Effect with Standard Conditions (when using an Environmentally Sensitive Area [ESA] to protect a property or the project is a repair, alteration or rehabilitation project that meets the *Secretary of the Interior's Standards for Treatment of Historic Properties [SOIS]*)

Attach the technical study reports to the HPSR as supporting documentation. Use summary sections in the HPSR to refer to the attached supporting documents for full technical details. Provide sufficient information on cultural resource studies in the HPSR summaries so that the reader clearly can understand the reasoning behind Caltrans' determinations of eligibility and, if applicable finding of effect. See [Exhibit 2.16](#) for information on what needs to be in these summaries. Without the appropriate sections completed *and* study reports attached, the HPSR is considered incomplete. CSO or SHPO's review time starts when complete documentation is received.

General HPSR Format

Depending on the size and nature of a project, use either a narrative HPSR or the "HPSR form" described in the "[HPSR Form](#)" section of this exhibit. Both the narrative HPSR and the HPSR form templates are available through the Headquarters Cultural Studies Office (CSO) and on-line at the Division of Environmental Analysis [Standard Environmental Reference](#) website.

The HPSR form is used when the project is simple, small in scope has few cultural resources, or there are no properties within the APE. If a project is large, complex or controversial or has a large number of cultural resources, the narrative HPSR format is used instead of the HPSR form.

Whichever format is used, be sure to include the following information as necessary in the appropriate HPSR.

² Caltrans Division of Environmental Office Cultural Studies Office.

Title Page

Identify project by Caltrans district, county, route, post mile limits, unit and E-FIS³ project number, and phase. A brief descriptive title, such as "Minor Widening on Route 53 between Fern Creek and Matador Road," also may be used. Include the report author's name and any co-authors as necessary. For Local Assistance Projects, include the Local Assistance funding source, Federal-Aid project number and location.

The title page identifies the project by:

- Name and type of investigation in a brief descriptive title, such as "Minor Widening on Route 53 between Fern Creek and Matador Road"
- County, route and post-miles (for Local Assistance, the funding source and Federal-Aid project number)
- E-FIS project number and phase (for Local Assistance, the location)

The page also includes

- Name, title, location and signature of the Caltrans Branch Chief (EBC) for whom the report was prepared. The EBC's signature on the title page indicates approval and acceptance of the document
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepares the report, along with the address for the PQS
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) who reviews the report for approval, along with the address for the PQS
- Month and year HPSR was prepared (appears at bottom of page) If a consultant PQS prepares the HPSR, the project contract number should appear below the project number

If the HPSR form is used, the title page is not necessary. The signatures appear at the end of the form.

Summary of Findings

State the purpose of the document (e.g., to request SHPO concurrence on Caltrans' determination(s) of NRHP eligibility or ineligibility for evaluated cultural resources,

³ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

and to document a proposed finding of “No Historic Properties Affected,” if applicable); and briefly summarize the results of cultural resource studies. This section is not necessary when the HPSR form is used because the findings are summarized on the form in Sections 7 or 8, as appropriate.

In order to minimize redundancy for Caltrans and SHPO and in the spirit of the federal Paperwork Reduction Act, if there are state-owned historical resources within the APE, state that the purpose of the HPSR, pursuant to the Public Resources Code 5024 Memorandum of Understanding⁴ (5024 MOU) Stipulation III (See [Exhibit 1.2](#)), also is to notify SHPO of Caltrans findings and request SHPO’s comments on the NRHP/California Historical Landmark (CHL) eligibility or ineligibility of the state-owned resource(s), and if eligible, to add the eligible building(s) or structure(s) to the Master List of Historical Resources (Master List), pursuant to California Public Resources Code (PRC) 5024(d).

If the HPSR form is used, the summary of findings is not necessary.

Project Description, Location and Area of Potential Effects

- Describe the project concisely, including information on the actual physical impacts such as the horizontal and vertical extent of any ground disturbance.
- Identify the Caltrans PQS who approved the APE, Project Manager who approved the APE, and dates of approval.
- Attach appropriate mapping, including a signed APE map (see Exhibits below).

Consulting Parties and Public Participation

Summarize coordination efforts and public comments received to date. If the project is simple, limit these to contacts (including form letter notifications) with local historical societies, Native Americans, governments, or other interest groups. Attach a phone log if appropriate. Provide the contact name and date and the nature and date of any responses. For projects involving ND/FONSIs or EIR/EISs, public involvement may include map displays or public hearings. Describe NEPA public involvement events that are expected as well as those that have occurred. Explain comments received and responses. Coordination efforts should include, but are not limited to:

⁴ 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, effective January 1, 2015.

- Local Government (Head of local government, Preservation Office / Planning Department)
- Native American Tribes, Groups and Individuals
- Native American Heritage Commission
- Local Historical Society / Historic Preservation Group (also if applicable, city archives, etc.)
- Public Information Meetings (list locations, dates below and attach copies of notices)

Summary of Identification Efforts

Include inventories, facilities, and persons consulted at a minimum, the following:

- Caltrans Cultural Resources Database (CCRD), which is for internal Caltrans staff use only
- Caltrans Historic Bridge Inventory
- National Register of Historic Places and updates
- California Register of Historical Resources and updates
- California Inventory of Historic Resources
- California Historical Landmarks and updates
- California Points of Historical Interest and updates
- The appropriate Information Center of the California Historical Resources Information System.
- Local government landmark and register listings

Note any other sources (human or archival) used, such as county assessor's records, historical society or museum archives, oral histories taken from property owners or old-timers, etc. Briefly describe the results of the research.

Properties Identified

State whether there are any cultural resources within the APE. If cultural resources were identified within the APE, list them and provide pertinent information for each of them. Include concise but sufficient background and contextual information about the project area so that the reader can understand the significance (or lack of significance) of the evaluated resources. Refer to the supporting documentation, as warranted. Be sure to include summary information about NRHP eligibility and whether a resource is a significant resource under CEQA.

Include, as appropriate:

- No cultural resources are present within the APE.
- Cultural resources are exempt from evaluation per [Section 106 PA/5024 MOU](#) Attachment 4 and that an appropriately qualified Caltrans PQS staff or consultant meeting the qualifications in Section 106 PA Attachment 1 at the applicable PQS level has made that determination. *Note: State-owned cultural resource types 3 through 7 require minimal recordation and their address need to be listed in the HPSR. See [Exhibit 4.4](#).*
- Bridges are listed as Category 5 in the Caltrans Historic Highway Bridge Inventory, referring to the attached page from the inventory.
- Historic properties previously were determined eligible or not eligible for the NRHP and the determination is still valid.
- Resources were evaluated as not eligible for inclusion in the NRHP. Refer to relevant attached supporting documentation.
- Archaeological sites are considered eligible for purposes of the project only, in accordance with Section 106 Programmatic Agreement Stipulation VII.C.3, because they will be protected through the establishment of ESAs.
- Properties are considered eligible for purposes of the project only in accordance with Section 106 Programmatic Agreement Stipulation VII.C.4, because evaluation was not possible. *Note: this finding requires CSO approval prior to completion of the HPSR.*
- Historic properties previously were listed or determined eligible for inclusion in the NRHP and those determinations are still valid. Include the date of listing or determination, applicable criteria, level and period of significance.
- Properties were evaluated as eligible for inclusion in the NRHP. Include the date of listing or determination, applicable criteria, level and period of significance, and refer to relevant attached supporting documentation.
- State-owned resources do not meet the NRHP criteria and/or California Historical Landmark registration criteria per PRC 5024(b) in accordance with the PRC 5024 MOU [Stipulation VIII](#). This includes built-environment, archaeological, landscape and other non-structural resources.
- State-owned archaeological sites, landscapes, non-structural resources meet the NRHP criteria and/or California Historical Landmark registration criteria per PRC 5024(b) in accordance with PRC 5024 MOU [Stipulation VIII.C](#).
- State-owned historical buildings, objects and structures meet the NRHP criteria and/or California Historical Landmark registration criteria per PRC 5024(b) and

should be added to the Master List of Historical Resources, per PRC 5024(d) in accordance with 5024 MOU [Stipulation VIII.C](#).

- Cultural resources are not significant resources under CEQA.
- Historical resources for the purposes of CEQA (includes NRHP and California Register of Historical Resources (CRHR) listed and eligible properties, CRHR listed or eligible resources, resources identified as significant in surveys that meet Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, see PRC 5024.1).

To facilitate SHPO’s ability to maintain the OHP’s comprehensive, computerized inventories of eligible and not eligible resources, the identifying information for each resource needs to follow a specific format that includes the name of a property (if there is one), location information, the community the resource is in (or the nearest community) and the Map Reference number that is keyed to the APE map, and OHP’s historical resource status code, if available. For example:

The following properties are eligible for inclusion in NRHP and are historical resources under CEQA:

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Smith House	451 Main St.	Anywhere, CA	2	(MR #1)
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	2	(MR#5)

The following state-owned buildings, objects and structures are eligible for inclusion in the NRHP and to be included in the Master List pursuant to PRC 5024(d):

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Edelberg House	496 Main St.	Anywhere, CA	4	(MR #25)
Summit Maintenance Stn	10099 Highway 4	Anywhere (vic.), CA	4	(MR #6)

None of the following properties is eligible for inclusion in the NRHP, nor are they historical resources under CEQA:

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Able’s Prune Packing Plant	35 E. Canterbury St.	Someplace, CA	6	(MR #1)
Melville Apts.	8012 S. Oceanview Dr.	Someplace, CA	6	(MR #5)
Little River RR Viaduct	Next to SR 43, KP 10.7	El Nido, CA	6	(MR #18)

Do not list properties that meet the criteria for [Section 106 PA Attachment 4](#) (Properties Exempt from Evaluation). Instead include the appropriate paragraph as follows:

[Name of Caltrans architectural historian or qualified consultant architectural historian], who meets the Professionally Qualified Staff Standards in Section 106 PA Attachment 1 as an Architectural Historian or above, has reviewed the project APE and confirmed that the only other properties present within the APE, including state-owned resources, meet the criteria for Section 106 PA Attachment 4 (Properties Exempt from Evaluation).

[Name of Caltrans archaeologist or qualified consultant archaeologist], who meets the Professionally Qualified Staff Standards in Section 106 PA Attachment 1 as a Co-Principal Investigator or above, has reviewed the project APE and confirmed that the only other properties present within the APE meet the criteria for Section 106 PA Attachment 4 (Properties Exempt from Evaluation).

Provide the site trinomial (e.g., CA-TRI-433) for each archaeological site covered in the document. As some Information Centers have a backlog in assigning trinomials, using a primary number is acceptable for those counties. However, every effort should be made to acquire a trinomial for evaluated archaeological sites.

The OHP Historical Resources Status Codes listings and eligibility determinations have extensions for each code. For example “1S” means a historic property individually listed in the NRHP and also listed in the CRHR, while “1CS” means a property individually listed in the CRHR only. As of August 2003 status code “4” applies only to state-owned resources that are included in the Master List through the PRC 5024 compliance process. See the Office of Historic Preservation's (OHP) [Historical Resources Status Codes](#) for a full list of the codes.

HPSR TIP:

It is acceptable to include findings in one or more of the HPSR types: HPSR to District File, HPSR to SHPO and HPSR to CSO. The sections of the HPSR refer to the types of findings that are authorized under the Section 106 PA.

For instance, it is possible that a single undertaking could have properties that the district can exempt from evaluation (HPSR to District File), evaluated properties for which SHPO concurrence is required (HPSR to SHPO), *and* either properties considered eligible because evaluation is not possible or properties will be protected by using ESAs or the SOIS (HPSR to CSO).

Findings

Under the Section 106 PA and as assigned by the Federal Highway Administration (FHWA), Caltrans districts are authorized to make eligibility determinations, and findings of no historic properties affected. The districts also can make findings of no

adverse effect with standard conditions, so long as Caltrans CSO does not object within 15 days of receipt. For state-owned resources list those that meet the NRHP/CHL criteria, state that Caltrans concurrently requests SHPO's comments under 5024 MOU [Stipulation III](#), and for NRHP/CHL listed or eligible buildings and structures, request SHPO to add them to the Master List, per PRC 5024(d). When Caltrans is the lead agency under CEQA, state which resources Caltrans PQS staff have determined are historical resources under CEQA and provide the information to the person completing the CEQA documentation.

For effect findings, explain the findings for each property as relevant, but make one effect finding for the undertaking as a whole.

HPSR to District File

If Caltrans has not consulted with SHPO or any other consulting parties on eligibility, either because there were no properties requiring evaluation in the APE (i.e., no cultural resources are present, all cultural resources are exempt from evaluation under Section 106 PA Attachment 4), cultural resources in the APE previously were determined not eligible for the NRHP (e.g., Category 5 bridges), or all historic properties in the APE previously were determined eligible for the NRHP and there is no effect to them), the Caltrans district documents a "Finding of No Historic Properties Affected" to the district file only. Checking the appropriate box on the HPSR form or adding a statement to that effect in a narrative HPSR serves as the same documentation. It is not necessary to notify SHPO.

Pursuant to the [Section 106 PA](#) Stipulation VIII.C.4, if Caltrans needs to consider an archaeological resource eligible for inclusion in the NRHP for purposes of the project only because special circumstances preclude their complete evaluation, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.4 the Caltrans District must request written approval from CSO prior to completing the HPSR.

Caltrans documents a Finding of No Historic Properties Affected to District file only. Checking the appropriate box on the HPSR form or adding a statement to that effect in a narrative HPSR will accomplish the documentation.

Include all findings that are applicable or state that this section is not applicable, but leave the heading in the document. The most common possible findings are:

- Not applicable. *[This finding also appears either in the HPSR to SHPO and/or HPSR to CSO]*
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation VIII.B, has determined that there are no cultural resources present in the APE and/or there are properties within the APE that **are exempt from evaluation**; see Section 5. *[This refers to the complete absence of cultural resources in the APE and also to cultural resources that are exempt from evaluation pursuant to [Section 106 PA Stipulation VIII.C.1](#) and Attachment 4 and because there is nothing there, as explained in the “[Properties Identified](#)” section of the HPSR.]*
- Caltrans, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.5, has determined there are properties within the APE that were **previously determined not eligible** for inclusion in the National Register of Historic Places, in consultation with the SHPO or formally determined not eligible for inclusion in the National Register of Historic Places by the Keeper of the National Register of Historic Places and those determinations remains valid; see Section 5. Copy of SHPO/Keeper correspondence is attached. *[This assumes that appropriate Caltrans PQS confirmed the prior determinations of eligibility are still valid.]*
- Caltrans, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.5, has determined there are properties within the APE that were **previously determined eligible** for inclusion in the National Register of Historic Places, in consultation with the SHPO or formally determined eligible for inclusion in the National Register of Historic Places by the Keeper of the National Register and those determinations remain valid; see Section 5. Copy of SHPO/Keeper correspondence is attached. *[This assumes that appropriate Caltrans PQS confirmed the prior determinations of eligibility are still valid.]*
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.A, has determined a **Finding of No Historic Properties Affected** is appropriate for this undertaking because there are no historic properties within the APE / the following historic properties will not be affected. *[Choose one or the other of the above statements. If there are previously listed/eligible historic properties within the APE, identify them and explain why they would not be affected. The attached documentation must clearly explain why there is no effect to historic properties.]*
- Caltrans, in accordance with Section 106 Programmatic Agreement Stipulation XVII and Attachment 7, has determined a **Finding of No Adverse Effect, Local**

Bridge Seismic Retrofit Program, Undertakings not requiring SHPO or ACHP review is appropriate for this undertaking. *[If the project also includes ground disturbing activities, haul roads, utility locations, construction staging areas, or any activity other than what occurs on the bridge itself DO NOT check, this box; the finding does not apply. Such activities may require SHPO review. Include all that apply from list below.]*

- Abutment catcher blocks
- CIDH pilings
- Fiber wrapping
- Base isolation, with no ground disturbance
- Pre-stressing bent caps
- Restrainer systems
- Steel bracing
- Steel Jacketing**
- Column Replacement**

***Include the following statement: Work conforms to the Secretary of the Interior's Standards for the Treatment of Historic Properties and has been approved by [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a Principal Architectural Historian.*

- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.B, has determined that **there are previously NRHP-listed and/or determined eligible historic properties** (See section 5 above) within the APE **that will be affected** by the undertaking. In accordance with Section 106 Programmatic Agreement Stipulation X, **Caltrans will continue consultation** with CSO and/or SHPO on the assessment of effects. *[This notifies CSO, SHPO and reminds Caltrans that the effect findings require consultation.]*

Notification - No Historic Properties Affected

When Caltrans has consulted with SHPO or any other consulting parties on a determination of eligibility for properties in a project's APE and finds that the project will result in

- No historic properties affected, either because Caltrans determined that all of the properties in the APE are ineligible for the National Register or
- There are historic properties in the APE but the project will not have an effect on them,

Caltrans must provide the SHPO and any other consulting parties with notification of that finding pursuant to Section 106 PA Stipulation IX.A. Checking the appropriate box on the HPSR form or adding a statement to that effect in a narrative HPSR will accomplish the notification.

HPSR to SHPO

When Caltrans has evaluated properties for eligibility to the NRHP, the Caltrans districts consult directly with SHPO on those determinations. The district transmits the HPSR directly to SHPO and sends a copy to the Section 106 Programmatic Agreement and Coordination Branch Chief (Section 106 Branch Chief) in CSO. Below are the two applicable findings. If this section of the HPSR is not applicable say so, but leave the heading in the document.

- This section of the HPSR is not applicable to this undertaking. *[This finding also appears either in the HPSR to SHPO and/or HPSR to CSO]*
- Caltrans has determined there are properties within the APE that were evaluated as a result of the project and are **not eligible** for inclusion in the National Register of Historic Places; **see Section 5**. Under Section 106 Programmatic Agreement Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination.
- Caltrans has determined there are properties within the APE that were evaluated as a result of the project and are **eligible** for inclusion in the National Register of Historic Places; **see Section 5**. Under Section 106 Programmatic Agreement Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination.
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.A, has determined a **Finding of No Historic Properties Affected is appropriate** for this undertaking and is **notifying SHPO of this determination**. *[This is only a notification; SHPO does not respond or comment.]*
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.B, has determined that **there are historic properties within the APE that will be affected** by the undertaking. In accordance with Section 106 Programmatic Agreement Stipulation X, **Caltrans will continue consultation** with CSO and/or SHPO on the assessment of effects. *[This notifies CSO, SHPO and reminds Caltrans that the effect findings require consultation. The statement refers to Findings of No Adverse Effect without Standard Conditions or to Findings of Adverse Effect.]*

Notification – Determinations of Eligibility

When Caltrans has consulted with SHPO or any other consulting parties on a determination of eligibility for properties in a project's APE for which an evaluation

was completed, the district, concurrent to sending the HPSR to the Section 106 Branch Chief, provides consulting parties with notification of that finding.

HPSR to CSO

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

Pursuant to the [Section 106 PA](#) Stipulation X.B, Caltrans districts are required to send HPSR findings to CSO, when Caltrans proposes a Finding of No Adverse Effect with Standard Conditions by using either ESAs or the SOIS to avoid adverse effects.

CSO has 15 days from receipt of complete documentation to object to the district's finding. CSO's concurrence in the district's effect finding is contingent upon SHPO's concurrence in the District's determination of eligibility. If using the HPSR form, summarize the finding below the appropriately checked box and refer the reader to the appropriate attachment for more detailed information. If using a narrative HPSR, provide a brief description and refer the reader to the appropriate attachment for more detailed information. The district then sends the HPSR to CSO.

If ESAs are used to ensure that the project will have no adverse effects on evaluated properties, a "Finding of No Adverse Effect with Standard Conditions" (FNAE-SC-ESA) is appropriate under the Section 106 PA.

Describe the ESA *and* attach an ESA Action Plan.

Include all restrictions on activities within the ESA, describe how the restrictions will be enforced (e.g., by placing the restrictions in the Plans, Specifications and Estimates [PS&E], fencing, monitoring construction, etc.), and include the name and appropriate PQS level of the Caltrans PQS who reviewed the ESA plan. Include any other relevant information to support the proposed finding. If using the HPSR form, summarize the finding below the appropriately checked box and refer the reader to the appropriate attachment for more detailed information. See Exhibits [2.7: ESA Action Plan](#) and [2.8: Findings of No Adverse Effect](#).

If the project uses the SOIS to ensure the project will have no adverse effects on historic properties, a "Finding of No Adverse Effect with Standard Conditions-SOIS" (FNAE-SC-SOIS) is appropriate under the Section 106 PA. Briefly describe how the project complies with the SOIS and describe how that compliance will be ensured, such as review of plans and specifications at certain completion levels, monitoring

Tip:

Be sure the FNAE-SC package is complete before sending it to CSO. ESA Action Plans and SOIS Action Plans now are required attachments.

during construction, etc. Include the name and appropriate PQS level of the Caltrans PQS who reviewed the work for compliance with the SOIS. If using the HPSR form, summarize the finding below the appropriately checked box and refer the reader to the appropriate attachment for more detailed information. See [Chapter 7](#) and Exhibits 2.7, 2.8 and [Exhibit 7.5: SOIS Action Plan](#); for additional guidance. For historic bridges, see [Exhibit 7.4: Historic Bridges and Tunnels - No Adverse Effects with Standard Conditions](#) for more detailed information.

If this section of the HPSR is not applicable say so, but leave the heading in the document. The appropriate findings include:

- This section of the HPSR is not applicable to this undertaking.
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation VIII.C.4, has determined that the properties within the APE, and described in Section 5, are **considered eligible** for inclusion in the National Register of Historic Places **for the purposes of this undertaking only** because **evaluation was not possible**.
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation X.B.1.a, and Attachment 5, has determined a **Finding of No Adverse Effect with Standard Conditions - ESA, is appropriate** for this undertaking because the historic property(ies) will be protected through the establishment of ESA(s), and is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) _____ [Indicate applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [List the site(s) and include description of ESAs and enforcement measures below; attach ESA Action Plan.] *[List the properties and locations and/or trinomials, unless the location is confidential, and include description of ESAs and enforcement measures below; attach ESA Action Plan. Explain whether the properties to be protected with an ESA are listed, determined eligible, or are considered eligible for the purposes of this undertaking only pursuant to 106 PA Stipulation VIII.C.3 for archaeological sites, or under VII.C.4 for other property types.]*
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation X.B.1.b, and Attachment 5, has determined a **Finding of No Adverse Effect with Standard Conditions – SOIS is appropriate** for this undertaking, and is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as Principal Architectural Historian has reviewed the documentation and determined that the proposed work meets the Secretary of the Interior’s Standards

for the Treatment of Historic Properties. *[List the properties and locations, unless the location is confidential and include description of work below or indicate below the title of the HPSR attachment that contains the description; attach SOIS Action Plan. Explain whether the properties are listed, determined eligible, or are considered eligible for the purposes of this undertaking only pursuant to 106 PA Stipulation VII.C.4 for properties other than archaeological sites.]*

Notification - No Adverse Effect with Standard Conditions

When the Caltrans district makes the FNAE-SC as described above, the district, concurrent with sending the finding to the Section 106 Branch Chief, provides notification of the finding to any consulting parties that have expressed views regarding potential effect to historic properties, pursuant to [Section 106 PA Stipulation X.B\(1\)](#)

Tribal Lands, THPO Consultation or When FHWA Is Not Lead Agency

The Section 106 PA does not apply to undertakings that occur on or affect tribal lands, or for consultation with Tribal Historic Preservation Officers (THPO). It also does not apply when FHWA is *not* the lead agency for the federal undertaking. When FHWA is the lead agency and the Section 106 PA covers that undertaking, other federal agencies (issuing permits or otherwise providing assistance) are not obligated to use the Section 106 PA to fulfill their Section 106 responsibilities. See [Chapter 2](#) Section 2.2.1 and [Exhibit 1.1: Section 106 PA Stipulation 1](#).

For undertakings where the Section 106 PA does *not* apply, use the narrative HPSR. The consultation language needs to cite the appropriate sections of 36 CFR 800 and not the stipulations in the Section 106 PA.

For instance, instead of using a summary paragraph to cite properties exempt from evaluation under Section 106 PA Attachment 4, the HPSR needs to refer to the Cultural Resources Letter Report (Letter Report); see [Exhibit 6.1](#). When the Section 106 PA does not apply, the appropriate PQS prepares the Letter Report when there are cultural resources in the APE that clearly lack significance either due to loss of integrity or the absence of historical associations or research values that would qualify the cultural resource as eligible for inclusion in the National Register or would make them historical resources for purposes of CEQA.

Because findings of No Adverse Effect with Standard Conditions (either ESA or SOIS) are stipulations in the Section 106 PA, they may not be used when a project is on or affect tribal lands, for consultations with THPOs, when FHWA is not the lead federal agency or when other federal agencies, in issuing permits or providing assistance, choose not to use the provisions in the Section 106 PA. For these reasons findings of “No Historic Properties Affected” and “No Adverse Effect with Standard Conditions” are not reported in the HPSR, but are included a separate Finding of Effect for the project. See Exhibits [2.8](#) and [2.9](#).

Follow the guidance elsewhere in this exhibit for all sections of the HPSR except in “[Properties Identified](#)” where the Letter Report is used to exempt cultural resources from evaluation instead of [Section 106 PA Attachment 4](#), [HPSR to District File](#), and [HPSR to SHPO](#).

HPSR Findings under Regular Section 106 Process

Under the regular Section 106 process, the HPSR is filed in the district office, the district sends a copy to the Section 106 Branch Chief in CSO *and* the HPSR is transmitted to SHPO/THPO for Section 106 purposes. The HPSR includes the one or more of following findings:

- As assigned by FHWA and pursuant to 36 CFR 800.4(a) and (b), Caltrans has determined that the APE and the scope and level of the identification efforts are adequate for this undertaking, and requests SHPO/THPO’s concurrence in this finding.
- There are no cultural resources within the APE.
- The only/only other cultural resources within the APE clearly lack significance either due to loss of integrity or the absence of historical associations or research values that would qualify the cultural resource as eligible for inclusion in the National Register of Historic Places or would make it a historical resource for purposes of CEQA, as described in the attached Letter Report prepared by _____ (Name and indicate whether person is Caltrans or consultant architectural historian or archaeologist), who is a(n) _____ (Indicate applicable PQS level and attach the Letter Report.) [Because the Section 106 PA does not apply, a Letter Report needs to be prepared. See [Exhibit 6.1](#).]
- Properties present within the project APE previously were determined not eligible for inclusion in the National Register of Historic Places in consultation with the SHPO/THPO, or were formally determined not eligible by the Keeper of the National Register are present within the project APE and the prior determinations

are still valid. Copy of SHPO/THPO/Keeper correspondence is attached. *[This assumes that appropriate Caltrans PQS confirmed the prior determinations of eligibility are still valid.]*

- As assigned by FHWA and pursuant to 36 CFR 800.4(c), Caltrans has determined that within the project APE there are properties evaluated as a result of the project that are not eligible for inclusion in the National Register of Historic Places, and requests SHPO/THPO's concurrence in this determination.
- As assigned by FHWA and pursuant to 36 CFR 800.4(c), Caltrans has determined that within the project APE there are properties evaluated as a result of the project that are eligible for inclusion in the National Register of Historic Places, and requests SHPO/THPO's concurrence in this determination.
- Properties previously determined eligible for the National Register of Historic Places in consultation with the SHPO/THPO, or formally determined eligible by the Keeper of the National Register of Historic Places are present within the project APE, and the prior determinations remain valid. *[This assumes that appropriate Caltrans PQS confirmed the prior determinations of eligibility are still valid.]*
- As assigned by FHWA and pursuant to 36 CFR 800.4(d)(1), Caltrans has determined a Finding of No Historic Properties Affected is appropriate for this undertaking, and is hereby notifying the SHPO/THPO of this finding.

Concurrent State Compliance

For federal undertakings, the HPSR serves as simultaneous documentation for Caltrans considerations under CEQA and, for state-owned resources, compliance with PRC 5024 pursuant to 5024 MOU [Stipulation III](#). However, when the Caltrans project is not a federal undertaking (e.g., state-only projects), use the Historical Resources Compliance Report to document considerations under CEQA and determinations under PRC 5024; see [Chapter 2](#) and [Exhibit 2.14](#): Historical Resources Compliance Report.

Findings for State-Owned Properties

When there are state-owned cultural resources in the APE, Caltrans needs to document compliance with PRC 5024, even when the project is a federal undertaking. To avoid redundancy, the HPSR also is used to document PRC 5024 compliance for a federal undertaking with state-owned properties.

Caltrans needs to submit the HPSR to SHPO for determinations of eligibility, pursuant to 5024 MOU Stipulation VIII, even when the finding is “No Historic Properties Affected” or “No Adverse Effect with Standard Conditions” under Section 106.

When the district sends the HPSR to SHPO under Section 106, it also notifies SHPO and requests SHPO’s comments pursuant to PRC5024 MOU Stipulations [III](#) and [VIII.C.6](#), both in the HPSR itself and in the transmittal letter. Send the HPSR and transmittal letter to the Section 106 Branch Chief in CSO for Section 106 compliance; the Section 106 Branch Chief will provide a copy of the transmittal letter to the Built Environment Preservation Services (BEPS) Branch Chief for concurrent PRC 5024 compliance documentation.

See the Caltrans [Standard Environmental Reference Volume 2-Cultural Resources](#) (SERv2) [Chapter 2 Sections 2.7.9](#) and [2.8.3.2](#) and [Exhibit 2.14](#) for the more information on what to include. The HPSR form and narrative templates also contain the range of most common findings that might apply.

The 5024 MOU provides for Findings of No State-owned Historical Resources Affected to be included only in the District file (see [Chapter 2 Sections 2.8.4](#) and [2.9.2.1](#)) and for Findings of No Adverse Effect with Standard Conditions to be sent to CSO for approval (see [Chapter 2 Sections 2.8.6.1](#) and [2.9.2.3](#)).

Do not include findings of adverse effects to state-owned historic properties in the HPSR; they are included in the federal “Finding of Adverse Effect” under a separate section of that document; see [Chapter 2 Section 2.8.7](#) and [Exhibit 2.9](#).

CEQA Considerations

In order to minimize redundancy for Caltrans and to document compliance, CEQA considerations regarding cultural resources may be included in the HPSR as a separate section. Consultation with SHPO is not required under CEQA. See the Caltrans SERv2 [Chapter 2 Section 2.7](#) and [Exhibit 2.14](#) for the more information on what to include. The HPSR form and narrative templates also contain the range of considerations that might apply.

Considerations of substantial adverse change are not included in the HPSR, but would be included in the Finding of Adverse Effect to ensure concurrent compliance, see [Exhibit 2.9](#).

Exhibits

Include the following exhibits as applicable. If using the HPSR form, these items are listed in “Section 11 List of Attached Documentation,” and attached to the form.

Location Map, Project Vicinity Map and APE Map

Include, at minimum, a map showing project location and vicinity, and a project APE map illustrating the proposed project, upon which the APE limits have been delineated. If no cultural resources are present and a “HPSR to District File” HPSR is used, the project APE map must be of sufficient scale to document the APE. A Caltrans PQS must sign the APE map indicating his or her approval.

If cultural resources are present, the project APE map must be of sufficient scale (200' scale is preferred) and have enough project detail to demonstrate the relationship of historic properties to the proposed project, especially important if the HPSR serves to document a Finding of No Historic Properties Affected or a Finding of No Adverse Effect with Standard Conditions. Clearly show the APE, the location of all discussed properties, the boundaries of any eligible or listed historic properties, and the boundaries of any ESAs used. Include a scale and north arrow.

If there are historic properties, the APE map should be drawn to encompass the boundaries of any National Register listed or eligible properties (including previously determined eligible and newly evaluated as eligible properties). It is permissible to indicate an Area of Direct Impact (ADI), but the ADI must be entirely within the APE. It is permissible to remove duplicate sets of maps, but clearly indicate which maps are where in the documentation.

Photographs and Other Exhibits

Include other appropriate exhibits. Good clear exhibits and graphics are invaluable to demonstrate the arguments and decisions discussed made in the text. Photos and graphics, which illustrate the following, can enhance the HPSR’s effectiveness as a consultation tool:

- Integrity (or lack of it) of cultural resource(s)
- Integrity of setting for cultural resource(s),
- Engineering plans,
- Profiles and cross-sections which show the actual limits of project effects,

SHPO's copy of the HPSR either should contain original photographs or scanned images that are clear when printed out.

Attachments

Include, as appropriate:

- Archaeological Survey Report, Extended Survey Report, Archaeological Evaluation Report
- Historical Resources Evaluation Report
- Bridge Evaluation or appropriate Caltrans Historic Bridge Inventory sheet(s)
- Test Excavation Report
- Letters from historical societies, Native American groups, local governments, other special interest groups, and the SHPO, etc.
- Phone logs that document consultation

HPSR Preparation and Caltrans Approval

Under the Section 106 PA the Caltrans PQS or a qualified consultant prepares the HPSR. HPSRs need at least *three* reviews:

- Peer review of the draft HPSR by District or CSO PQS at the appropriate level for the contents of the HPSR
- Review of the final HPSR for EBC approval by District or CSO PQS at the appropriate level
- Review and approval of the final HPSR by the EBC

The HPSR's primary function is to document the Section 106 process through the identification and evaluation phase, including whether there are historic properties that would be affected by the undertaking [36 CFR 800.4(d) and 106 PA Stipulation IX.B], as well as FNAE-SCs as delegated to CSO. Because of these different functions, depending on what stage of the Section 106 process is being documented, the Caltrans PQS certification level needed to conduct the peer review and review for approval will change. [Chapter 2](#) Section 2.5.5 explains the reasons why certain HPSRs require a higher level of Caltrans PQS peer review, while [Exhibit 2.11](#): Required Copies and Required Reviews of Cultural Resources Documents Table C contains a chart with the various HPSRs findings and who is certified to conduct peer review and review for approval. However, Caltrans PQS at the level appropriate to the type of cultural resources in the APE must peer review and review for approval all

attached documentation supporting Section 106 findings (e.g., ASRs, AERs, HRERs, etc.).

After the draft HPSR has been peer reviewed and any necessary revisions are made, the Caltrans PQS or consultant who prepares the HPSR signs, dates the final HPSR and includes his or her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the HPSR for approval likewise signs, dates, and includes his/her PQS discipline, level and District. If the Caltrans PQS document preparer is certified at the appropriate level to conduct reviews for approval⁵, his or her signature on the final document also signifies review for EBC approval. The EBC signs and dates the HPSR to signify approval.

NEPA Assignment

Under the authority of 23 USC 326 and 23 USC 327, FHWA assigned all FHWA responsibilities for compliance under the National Environmental Policy Act (NEPA), including FHWA's Section 106 responsibilities. The Section 106 PA further clarifies roles and responsibilities under NEPA Assignment. For more information on NEPA assignment, please refer to [Chapter 38](#) of the Caltrans SER.

HPSR Narrative and Form Templates

In addition to the HPSR narrative template, Caltrans has developed an HPSR form template, both of which may be used in conjunction with using the Section 106 PA. For large or complex projects or those with a large number of cultural resources, the narrative HPSR is used and tabs may be used to guide reviewers to the various sections or attachments.

The HPSR form is used only for simple, straight-forward projects; use of the form template is always optional.

The form is best used for simple projects, such as:

- Projects that are not large in scope,
- Projects that do not contain a large number of evaluated resources, or
- Projects for which no cultural resources or properties are located within the APE

⁵ At a minimum Lead Archaeological Surveyor or Architectural Historian level or above; see Exhibit 2.11 Table C

The templates appear to be very long because they contain the range of most commonly used statements, with the appropriate language for each finding. *Delete those that do not apply* for the reasons stated above. Sections 3 through 10 contain the most frequently used statements and conclusions. One or more statement in these sections may apply, depending on the project. *Delete statements that do not apply.*

Delete the instructions and irrelevant statements to shorten the HPSR, whether in form or narrative format.

If a section is not applicable, *the heading will remain* and the “Not Applicable” box may be checked or the narrative statement is retained. Since the form is in a table format in Word, to delete the irrelevant lines:

- Highlight the row(s) of text or space to be deleted
- On the menu, click on Table (or its appropriate icon), then
- Click on “Delete,” and the lines should disappear

Annotated HPSR

Attached to this exhibit is an annotated HPSR that shows how the activities and conclusions described in the HPSR correlate to the Section 106, CEQA, and PRC 5024 regulations, the Section 106 PA, and for state-owned cultural resources the 5024 MOU. For the most part the annotations are in the right margin and are color coded to the applicable activity. Abbreviations used in the annotations include:

CCR	California Code of Regulations
CCRD	Caltrans Cultural Resources Database
CFR	Code of Federal Regulations
CSO	Cultural Studies Office
CT	Caltrans
DOEs	Determinations of Eligibility
DPR 523	Department of Parks and Recreation Series 523 inventory forms
EBC	Environmental Branch Chief
FAE	Finding of Adverse Effect
FNAE	Finding of No Adverse Effect
Master List	Master List of Historical Resources
MOU	Public Resources Code 5024 Memorandum of Understanding
PRC	Public Resources Code
SC	Standard Conditions
SOIS	Secretary of the Interior’s Standards for the Treatment of Historic Properties
Stip.	Stipulation(s)

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

1. UNDERTAKING DESCRIPTION AND LOCATION

District	County	Route	Post Miles	Unit	E-FIS Project Number	Phase
<i>District</i>	<i>County</i>	<i>Federal Project. Number. (Prefix, Agency Code, Project No.)</i>		<i>Location</i>		

For Local Assistance projects off the highway system, use headers in italics

Project Description:

(Insert project description here; refer reader to location and vicinity maps in HPSR; delete this instruction line.)

36 CFR 800.3(a) also PA Stip. VI.B. Indicates that CT determined there is an undertaking with potential to affect historic properties. And MOU Stip. III a project/activity with potential to affect state-owned historical resources.

2. AREA OF POTENTIAL EFFECTS

In accordance with Section 106 Programmatic Agreement Stipulation VIII.A, the Area of Potential Effects (APE) for the project was established in consultation with _____ [Name of Caltrans PQS and PQS discipline/level], and _____ [Name of project manager/local assistance engineer], Project Manager/Local Assistance Engineer, on _____ [date]. The APE maps are located _____ [specify technical study, figure or exhibit number] in this Historic Property Survey Report.

The APE was established as _____ [add brief description as to where and how boundaries were set].

36 CFR 800.4(a)(1) and PA Stip. VII.A. APE establishment.

3. CONSULTING PARTIES / PUBLIC PARTICIPATION

(For the following, check the appropriate line, list names, dates, and locations and results of contacts, as appropriate. List organizations/persons contacted and attach correspondence and summarize verbal comments received as appropriate. Delete this instruction line and statements below that are not applicable.)

- Local Government (Head of local government, Preservation Office / Planning Department)
 -
- Native American Tribes, Groups and Individuals
 -
- Native American Heritage Commission
 -

36 CFR 800.4(a)(3) and PA Stip. VI.B. Seek info from consulting parties, Native Americans, other with knowledge or interest.

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

- Local Historical Society / Historic Preservation Group (also if applicable, city archives, etc.)
 -
- Public Information Meetings (list locations, dates below and attach copies of notices)
 -
- Other

36 CFR
800.4(a)(3)
and PA
Stip. VI.B.
Seek info
from
consulting
parties,
Native
Americans,
other with
knowledge
or interest.

4. SUMMARY OF IDENTIFICATION EFFORTS

Delete this instruction line and statements below that are not applicable.

- | | |
|---|--|
| - National Register of Historic Places | - California Points of Historical Interest |
| - California Register of Historical Resources | - California Historical Resources Information System (CHRIS) |
| - California Inventory of Historic Resources | - Caltrans Historic Highway Bridge Inventory |
| - California Historical Landmarks | - Caltrans Cultural Resources Database (CCRD) |
- Other Sources consulted [e.g., historical societies, city archives, etc. List names and dates below]
 -
 - Results: (Provide a brief summary and research results, as well as inventory findings.)

36 CFR
800.4(b)
(a) and
PA Stip.
VIII.B.
Identify
historic
properties

HISTORIC PROPERTY SURVEY REPORT

5. PROPERTIES IDENTIFIED

(Check the appropriate category, list properties, or refer reader to appropriate technical study attached. Provide, as appropriate, complete address, period and level of significance, criteria, map reference, and any existing state or local designation, e.g. NHL, CHL, and Points. Identify state-owned resources as such. Do not include properties that are not within the APE. Attach previous SHPO determinations, as applicable. Delete this instruction line and findings that are not applicable.)

- No cultural resources are present within the APE.
- _____ [Name and indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) _____ [Indicate applicable PQS level], has determined that the only/only other properties present within the APE meet the criteria for Section 106 Programmatic Agreement Attachment 4 (Properties Exempt from Evaluation). [While it is not required, including a statement under this bullet that lists the identified exempted property type(s) can be helpful for the reader, and for those preparing studies for future projects, to know why certain cultural resources within the APE were exempted from evaluation.]
- Bridges listed as Category 5 in the Caltrans Historic Highway Bridge Inventory are present within the APE. Appropriate pages from the Caltrans Historic Bridge Inventory are attached.
 -
- The following cultural resources within the APE previously determined not eligible for inclusion in the National Register of Historic Places and that determination is still valid.
 -The following cultural resources within the APE are not eligible for inclusion in the National Register of Historic Places:
 -
- The following archaeological sites within the APE are considered eligible for inclusion in the National Register of Historic Places for the purposes of this project only because they will be protected from any potential effects through the establishment of an ESA, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.3. See attached documentation.
 -
 -
 -

36 CFR
800.4(c)(1)
and PA Stip.
VIII.C.1 & 2
Evaluate
significance.
This is the
laundry list of
everything
found as a
result of
Section 4
above.

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Annotated HPSR

HISTORIC PROPERTY SURVEY REPORT

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- The following properties within the APE are considered eligible for inclusion in the National Register of Historic Places for the purposes of this project only because evaluation was not possible, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.4. (Requires written CSO approval prior to completion of the HPSR.)
 -
- The following properties within the APE previously were listed or determined eligible for inclusion in the National Register of Historic Places and that determination is still valid. (Include date of listing or determination):
 -
- The following properties within the APE are eligible for inclusion in the National Register of Historic Places:
 -
- The following resources are not significant resources under CEQA:
 -
- The following are historical resources for the purposes of CEQA because they meet the California Register or Historical Resources criteria and/or locally designated under a local government ordinance or were identified as significant in a survey that meets the Office of Historic Preservation standards. (This includes National Register and California Register listed and eligible properties, California Register listed or eligible resources—per State Historical Resources Commission determination resources, resources identified as significant in surveys that meet Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, and tribal cultural resources as defined in PRC 21074. State whether they are ineligible for the National Register, as sometimes happens with locally designated landmarks or resources identified as significant in a survey.)
 -
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36 CFR
800.4(c)(1)
and PA Stip.
VIII.C.1 & 2
Evaluate
significance.
This is the
laundry list of
everything
found as a
result of
Section 4
above.

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

6. HPSR to District File

(Check all that apply. Do not transmit to SHPO) Delete this instruction line and findings that are not applicable.

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- Not applicable.
- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation VIII.B, has determined that there are no cultural resources present in the APE and/or there are properties within the APE that are exempt from evaluation; see Section 5.
- Caltrans, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.5, has determined there are properties within the APE that were previously determined not eligible for inclusion in the National Register of Historic Places, in consultation with the SHPO or formally determined not eligible for inclusion in the National Register of Historic Places by the Keeper of the National Register of Historic Places and those determinations remains valid; see Section 5. Copy of SHPO/Keeper correspondence is attached.
- Caltrans, in accordance with Section 106 Programmatic Agreement Stipulation VIII.C.5, has determined there are properties within the APE that were previously determined eligible for inclusion in the National Register of Historic Places, in consultation with the SHPO or formally determined eligible for inclusion in the National Register of Historic Places by the Keeper of the National Register and those determinations remain valid; see Section 5. Copy of SHPO/Keeper correspondence is attached.

36 CFR 36 CFR 800.4(c) (2) and PA Stip. VII.C. Normally consultation w/ SHPO is required, but PA delegates authority for certain DOEs to CSO and CT districts.

- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.A, has determined a Finding of No Historic Properties Affected is appropriate for this undertaking because there are no historic properties within the APE / the following historic properties will not be affected. (Choose one or the other of the above statements. If there are previously listed/eligible historic properties within the APE, identify them and explain why they would not be affected.)

•

36 CFR 800.4(d)(1) and PA Stip. IX.A. Normally consultation w/ SHPO, but PA delegates authority for No Historic Properties Affected to CT districts.

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation XVII and Attachment 7, has determined a Finding of No Adverse Effect, Local Bridge Seismic Retrofit Program, Undertakings not requiring SHPO or ACHP review is appropriate for this undertaking. (*If the project also includes ground disturbing activities, haul roads, utility locations, construction staging areas, or any activity other than what occurs on the bridge itself DO NOT check this box. Such activities may require SHPO review. Check all that apply.*)

- Abutment catcher blocks
- Fiber wrapping
- Pre-stressing bent caps
- Steel bracing
- Column Replacement**
- CIDH pilings
- Base isolation, with no ground disturbance
- Restrainer systems
- Steel Jacketing**

- **Work conforms to the Secretary of the Interior's Standards for the Treatment of Historic Properties and has been approved by _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a Principal Architectural Historian.

36 CFR 800.4(d)(1) and PA Stip. XVII. SHPO delegated certain local bridge seismic retrofit effect findings to CT districts. This is the only no adverse effect finding that is delegated to the CT districts.

- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.B, has determined that there are previously NRHP-listed and/or determined eligible historic properties (See section 5 above) within the APE that will be affected by the undertaking. In accordance with Section 106 Programmatic Agreement Stipulation X Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

Serves as a reminder that there's another step coming: 36 CFR 800.4(d)(2) and PA Stip. IX.B. Continue consultation w/ CSO on FNAE-SCs *or* w/ SHPO on FNAE no SCs & FAEs.

7. HPSR to SHPO

(Check all that apply. Transmit to SHPO, a copy to DEA-CSO. Delete this instruction line and findings that are not applicable.)

- Not applicable.
- Caltrans has determined there are properties within the APE that were evaluated as a result of the project and are not eligible for inclusion in the National Register of Historic Places; see Section 5. Under Section 106 Programmatic Agreement Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination.
- Caltrans has determined there are properties within the APE that were evaluated as a result of the project and are eligible for inclusion in the National Register of Historic Places; see Section 5. Under Section 106 Programmatic Agreement Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination.

36 CFR 800.4(c)(2) and PA Stip. VIII.C.6. Requires SHPO consultation on DOEs for evaluated properties; this authority was not delegated.

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

– Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.A, has determined a Finding of No Historic Properties Affected is appropriate for this undertaking and is notifying SHPO of this determination.

36 CFR 800.4(d)(1) and PA Stip. IX.A. SHPO notification on No Hist Props Affected when prior consultation.

– Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation IX.B, has determined that there are historic properties within the APE that will be affected by the undertaking. In accordance with Section 106 Programmatic Agreement Stipulation X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

36 CFR 800.4(d)(2) and PA Stip. IX.B. Continue consultation w/ CSO on FNAE-SCs *or* w/ SHPO on FNAE no SCs & FAEs.

8. HPSR to CSO

(Check all that apply. Transmit to – CSO; concurrent submittal to SHPO when eligibility determinations require concurrence.) Delete this instruction line and findings that are not applicable.

– Not applicable.

36 CFR 800.4(c)(2) and PA Stip. VIII.C.3 & 4.

– Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation VIII.C.4, has determined that the properties within the APE, and described in Section 5, are considered eligible for inclusion in the National Register of Historic Places for the purposes of this undertaking only because evaluation was not possible.

Delegates SHPO consultation on eligibility to CSO.

– Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation X.B.1.a, and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions - ESA, is appropriate for this undertaking because the historic property(ies) will be protected through the establishment of ESA(s), and is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) _____ [Indicate applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [List the properties and locations and/or trinomials, unless the location is confidential, and include description of ESAs and enforcement measures below; attach ESA Action Plan. Explain whether the properties to be protected with an ESA are listed, determined eligible, or are considered eligible for the purposes of this undertaking only pursuant to 106 PA Stipulation VIII.C.3 for archaeological sites, or under VII.C.4 for other property types.]

36 CFR 800.5(b) and PA Stip. IX.B.1. Delegates SHPO consultation on FNAE-SC: ESA to CSO.

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Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

State of California Transportation Agency

Department of Transportation

HISTORIC PROPERTY SURVEY REPORT

- Caltrans, pursuant to Section 106 Programmatic Agreement Stipulation X.B.1.b. and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – SOIS is appropriate for this undertaking, and is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as Principal Architectural Historian has reviewed the documentation and determined that the proposed work meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties. [List the properties and locations, unless the location is confidential and include description of work below or indicate below the title of the HPSR attachment that contains the description; attach SOIS Action Plan. Explain whether the properties are listed, determined eligible, or are considered eligible for the purposes of this undertaking only pursuant to 106 PA Stipulation VII.C.4 for properties other than archaeological sites.]
 -

36 CFR 800.5(b) and **PA Stip. IX.B.1.** Delegates SHPO consultation on FNAE-SC: SOIS to CSO.

HISTORIC PROPERTY SURVEY REPORT

9. Findings for State-Owned Properties

When state-owned cultural resources are potentially affected by a federal undertaking, 5024 MOU Stip. III allows use of the 106 PA to comply with PRC 5024. This section summarizes the findings under the 5024 MOU.

Findings to District File

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- Not applicable; project does not involve Caltrans right-of-way or there are no Caltrans-owned cultural resources within the APE.
- _____[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the Project Area Limits that are exempt from evaluation because they meet the criteria for Resource Types 1 and/or 2, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation).
- _____[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the Project Area Limits that are exempt from evaluation because they meet the criteria for Resource Types 3 through 7, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation). The following state-owned cultural resource type(s) have been recorded pursuant to Stipulation VIII.C.1: [List each resource(s) by address and include the resource type, i.e. resource type 3,4,5,6,7 or a combination thereof.]
 -
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.5, has determined that the following State-owned cultural resources within the APE previously were determined not eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmarks and that determination is still valid.
 -
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PRC 5024 and MOU Stip. VIII.C.1 and Attach. 4. Normally consultation w/ SHPO, but PA delegates authority for certain DOEs to CT districts.

State-owned Resource Types 3-7 must be inventoried in CCRD and on DPR 523 Primary Record. To District

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
color-coded to activity.

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HISTORIC PROPERTY SURVEY REPORT

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- Caltrans has determined that the following State-owned historical resource(s) within the APE previously were determined eligible for inclusion in the National Register of Historic Places/California Historical Landmarks but are not included in the Master List of Historical Resources. (Include date of determination, listing, applicable eligibility criteria, period and level of significance.)
 -
 -

PRC 5024 and MOU Stip. VIII.C.1 and Attach. 4. Normally consultation w/ SHPO, but PA delegates authority for certain DOEs to CT districts.

- Caltrans has determined that the following State-owned historical resources within the APE previously were included in the Master List of Historical Resources. (Include date of determination, listing, applicable eligibility criteria, period and level of significance.)
 -

PRC 5024(f) and 5024.5. and MOU Stip. IX.A. Normally notification and/or consultation w/ SHPO, but MOU delegates authority for No State-owned Historical Resources Affected to CT districts.

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.A.2, has determined that a Finding of No State-owned Historical Resources Affected is appropriate because there are no State-owned Historical Resources within the APE/the following State-owned Historical Resource(s) are within the APE but the undertaking will have no effect on it/them [List the resource(s) and state whether or not they are on the Master List.]
 -
 -

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the APE that will be affected by the undertaking. In accordance with PRC 5024 Memorandum of Understanding Stipulations III and X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

PRC 5024(f) and 5024.5 and 5024 MOU Stip. IX.B. Continue consultation w/ CSO on FNAE-SCs or FNAE no SCs and FAEs for resources not on the Master List or w/ SHPO on FNAE no SCs & FAEs for resources on the Master List..

Findings to SHPO

- Not applicable. [HPSR does not need to go to SHPO.]
- Caltrans has evaluated and concluded that the following State-owned cultural resources within the APE do NOT meet National Register of Historic Places and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination.
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PRC 5024(b) and (d) and MOU Stip. VIII.C.6. Evaluated state-owned resources go to SHPO for concurrence.

Annotated HPSR

HISTORIC PROPERTY SURVEY REPORT

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- Caltrans has evaluated and determined that the following State-owned archaeological sites, landscapes, or non-structural resources within the APE that meet the National Register of Historic Places criteria and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination. [\[List the resource\(s\) including address or locational information.\]](#)
 -
 -
- Caltrans has evaluated and determined that the following State-owned buildings, structures, objects and districts within the APE meet National Register of Historic Places and/or the California Historical Landmarks eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination; pursuant to PRC 5024(d), **Caltrans requests that SHPO add these resources to the Master List of Historical Resources.** [\[List the resource\(s\) including address or locational information; explain whether they are NRHP or CHL eligible; and state the criteria, level of significance and period of significance.\]](#)
 -
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PRC 5024(b) and (d) and MOU Stip. VIII.C.6. Evaluated state-owned resources go to SHPO for concurrence. Non-structural resources such as sites, tree rows, etc. will not go on Master List. Buildings, objects, structures and historic districts containing built-environment features will be placed on the Master List.

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the APE that will be affected by the undertaking. In accordance with PRC 5024 Memorandum of Understanding Stipulation X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

PRC 5024(f) and 5024.5 and 5024 MOU Stip. IX.B. Continue consultation w/ CSO on FNAE-SCs or FNAE no SCs and FAEs for **resources not on the Master List or w/ SHPO on FNAE no SCs & FAEs for resources on the Master List.**

Findings to CSO

- Not applicable.
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.3, has determined that the following State-owned archaeological site(s) within the APE is/are considered eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmark(s) for the purposes of this project only. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.a, and Attachment 5, Caltrans has determined a Finding of No Adverse Effect with tandard Conditions - ESA, is appropriate because the site(s) will be protected through the establishment of ESA(s) as described above in Section 8 HPSR to CSO. [\[List the site\(s\)\]](#)
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PRC 5024 (b) MOU Stip. VIII.C.3. Delegates SHPO consultation on eligibility to CT Districts.

HISTORIC PROPERTY SURVEY REPORT

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- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.4, has determined that the following State-owned cultural resources within the APE are considered eligible for inclusion in the National Register of Historic Places or for registration as a California Historical Landmark(s) for the purposes of this project only because evaluation was not possible. [List the resource(s) by name, address or locational information, the criterion under which the re-source(s) considered eligible and the level and period of significance.]

PRC 5024 (b) MOU Stip. VIII.C.4.
Delegates SHPO consultation on eligibility to CSO.

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- Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.a, and Attachment 5, Caltrans has determined a Finding of No Adverse Effect with Standard Conditions - ESA, is appropriate because the following State-owned historical resource(s)—which have been determined eligible for or are listed in the National Register of Historic Place or for are eligible or are register as California Historical Landmark(s) — will be protected through the establishment of ESA(s) as described above in Section 8 HPSR to CSO. [List the site(s) and whether they are on the Master List.]

PRC 5024(f) and 5024.5 and MOU Stip. X.B.1.
Delegates SHPO consultation on FNAE-SCs for ESAs and SOIS to CSO.

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- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.b, and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – SOIS is appropriate for this undertaking because the following State-owned historical resource(s)—which have been determined eligible for or are listed in the National Register of Historic Place or for are eligible or are register as California Historical Landmark(s), and is hereby notifying CSO of this finding; as explained above in Section 8 HPSR to CSO. [List the resource(s) and whether they are on the Master List, and include description of work below or indicate below the title of the HPSR attachment that contains the description; attach SOIS Action Plan.]

HISTORIC PROPERTY SURVEY REPORT

- For State-owned qualified historical buildings, and other State-owned historical resources within the APE, Caltrans has applied the California Historical Building Code (CHBC) to relevant sections of the current code(s) and/or standards and, if applicable, has consulted with the California Historical Building Safety Board (SHBSB) through its Executive Director pursuant to Health and Safety Code Section 18961 and its implementing regulations at California Code of Regulations Title 24 Part 8 Section 8-103.2. *[Indicate below whether use of current code(s) and standards adversely affected character-defining features of the property and describe the alternative solutions under the CHBC, or indicate below which HPSR attachment contains the description. If applicable, attach copies of correspondence with the SHBSB or its Executive Director.]*

Health & Safety Code Secs. 18950-18961, PRC 21084.1 and MOU Stip. X.B.1 and Attach. 5.2.C.
Evidence of consultation or reason why not necessary is required under Health & Safety Code and to use FNAE-SC:SOIS.

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10. CEQA Considerations

(Check all that apply. Consultation with SHPO is not required under CEQA. Delete this instruction line and findings that are not applicable.)

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- Not applicable; Caltrans is not the lead agency under CEQA.
- Caltrans PQS staff has determined there are no historical resources within the Project Area limits, as outlined in CEQA Guidelines 15064.5(a).
- Caltrans PQS staff has determined that there are resources in the project area that were previously determined not to meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), that the prior determination remains valid, and they are not historical resources for purposes of CEQA; see Section 5.
- Caltrans PQS staff determined that there are resources in the project area that were evaluated as a result of this project and do not meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), and are not historical resources for purposes of CEQA; see Section 5.

14 CCR 15064.5(a).C
Complete this section only when Caltrans is the lead agency. Conclusions should parallel PA and MOU conclusions except that there are additional resources that could meet California Register Criteria. See SERv2 Chapter 4 and Exhibit 4.3.

Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
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HISTORIC PROPERTY SURVEY REPORT

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– Caltrans PQS staff has determined that there are resources in the project area that do NOT meet National Register of Historic Places criteria but ARE historical resources for purposes of CEQA because they: are listed in the California Register of Historical Resources or were determined eligible by the State Historical Resources Commission- [§15064.5(a)(1)], are included in a local register or identified as significant in a local survey meeting OHP standards [§15064.5(2)], or Caltrans, as the lead agency, has determined that they meet the criteria for listing in the California Register of Historical Resources [§15064.5(a)(3) - (4)] ; see Section 5.

– Caltrans PQS staff has determined there is no impact to the following historical resources within the Project Area limits. [List the resource(s) and explain why or indicate the title of the HPSR attachment that contains the description.]

– Caltrans PQS staff has determined for following historical resources, there is no substantial adverse change - ESAs, because the impacts to the following historical resources within the Project Area limits will be avoided through the establishment of Environmentally Sensitive Areas (ESA), enforcement measures and conditions that are included in the attached documentation. _____ [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) _____ [Indicate applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [List the resource(s) and include description of ESAs and enforcement measures below; attach ESA Action Plan as appropriate.]

– Caltrans PQS staff has determined that for the following historical resources, no substantial adverse change – [Specify all that are appropriate, don't include terms that are not applicable:] rehabilitation / repair / maintenance / direct or indirect alteration / transfer with protective easements, covenants and/or agreements because the proposed work that affects the following historical resources within the Project Area limits will be completed in a manner consistent with / will be mitigated below the level of significant impact by using [Specify one of the two preceding actions, delete the other; they are different under CEQA; the first can lead to a Class 31 CE; the second fulfills PRC 15064.5(b)(3)] the Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (Standards). _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a _____ [Indicate applicable PQS level: Principal Architectural Historian or Principal Investigator], and has the appropriate education and experience, has reviewed the documentation and determined that the measures meets the

14 CCR
15064.5(b).
Conclusion parallels No Historic Properties Affected and No State-owned Historical Resources Affected.

14 CCR
15064.5(b) and 15064.5(b)(3).
Conclusions parallel FNAE-SC. The HPSR should not contain a conclusion of Substantial Adverse Change. That conclusion needs to be in the Finding of Adverse Effect when Caltrans is lead CEQA agency. See SERv2 Chapter 2 and Exhibit 2.9.

HISTORIC PROPERTY SURVEY REPORT

Standards. _____ [Name and applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [List the resource(s) and include a brief description of work ESAs or indicate the title of the HPSR attachment that contains the description; attach SOIS Action Plan, draft covenants or easements as appropriate.]

PRC 15064.5(b) requires Caltrans to develop measures to avoid or mitigate substantial adverse changes to historical resources under CEQA. This statement serves as a reminder that this mitigation step in CEQA needs to be completed. See Chapter 2 & Exhibit 2.9.

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- Caltrans PQS staff has determined that there is a substantial adverse change to the following historical resources and will identify measures to avoid or mitigate these changes.

11. List of Attached Documentation

(Provide the author/date and peer reviewer/date of the technical report. Delete this instruction line and documentation that is not applicable.)

- Project Vicinity, Location, and APE Maps (note which attachment(s) contains the maps)
- California Historic Bridge Inventory sheet
- Historical Resources Evaluation Report (HRER)
-
- Archaeological Survey Report (ASR)
-
- Archaeological Evaluation Report (CARIDAP, XPI, PII, PIII)
-
- Environmentally Sensitive Area (ESA) Action Plan
-
- Secretary of the Interior’s Standards for the Treatment of Historic Properties (SOIS) Action Plan
-
- Other (Specify below)
-

36 CFR 800.11 requires APES, DOEs and findings of effect be supported by sufficient documentation to enable any reviewing parties to understand its basis, and PA Stip. XVIII also requires the documentation to be in accordance with the SERv2.

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Annotated HPSR

Regulatory Citations
106 PA & 5024 MOU Stips
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HISTORIC PROPERTY SURVEY REPORT

12. HPSR Preparation and Caltrans Approval

Prepared by (sign on line):

District ____

[PQS level and discipline]

Date

Caltrans PQS:

Prepared by: (sign on line)

Consultant /
discipline:

[Appropriate PQS discipline]

Date

Affiliation

[Firm/company and location]

Reviewed for approval by (sign on line)

While other Caltrans PQS might review the draft HPSRs for specific disciplines, only one Caltrans PQS signs for EBC approval

District ____ Caltrans
PQS discipline/level:

[PQS certification level]

Date

Approved by (sign on line)

While other CT EBCs might review the draft HPSR and attachments, only one CT EBC signs the HPSR to signify approval.

District ____ EBC:

[Environmental Branch name]

Date

36 CFR 800.3 through 5(b), 800.6 and PA Stip. VI, 14 CCR 15064.5(a) & (b), and PRC 5024. The CT EBC's signature approves the HPSR's legal findings for Caltrans, as assigned by FHWA, under CEQA and for state-owned cultural resources, as delegated by SHPO in the Sec. 106 PA and the 5024 MOU..

Exhibit 2.7: Environmentally Sensitive Area Action Plan Format and Content Guide

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Exhibit 2.7: Environmentally Sensitive Area Action Plan Format and Content Guide

Introduction

Within the context of cultural resources studies, Environmentally Sensitive Areas (ESAs) are locations where archaeological sites or other historic properties have been identified that need some measure of active protection during the implementation of a project. Caltrans uses ESAs to fulfill various requirements as specified in the Section 106 Programmatic Agreement ([Section 106 PA](#))¹ Stipulations [VIII.C.3](#) and [X.B.1](#), and as outlined in Section 106 PA [Attachment 5](#). That attachment requires the development of an ESA Action Plan to ensure proper implementation of Section 106 PA Stipulation X, and to ensure compliance with CEQA, and for state-owned historical resources, Public Resources Code (PRC) 5024 Memorandum of Agreement² (5024 MOU) [Stipulations VIII.C.3](#) and [X.B.1](#), and [Attachment 5](#). See [Chapter 2](#) Section 2.3.8 and [Chapter 5](#) for additional information on ESAs.

The ESA Action Plan delineates the archaeological sites or other historic properties to be protected, documents the protective measures required, identifies responsible parties and their appropriate tasks, and outlines an anticipated schedule and process. An ESA Action Plan always should be prepared when an ESA is established.

ESA TIPS

- ESA protection starts in the planning process, not during project implementation
- Work closely with the Resident Engineer and educate construction personnel with pre-construction field reviews and training
- ESAs must be included in the RE Pending File and clearly marked on project plans and in contract specifications (PS&E)
- To ensure contractor compliance, use appropriate Standard Special Provisions (SSPs), or Non-Standard Special Provisions (NSSPs) when special measures are required

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

² *Memorandum of Understanding Between the California Department of Transportation and the California Historic Preservation Officer Regarding Compliance with Public Resources Code Section 5024 and Governor's Executive Order W-26-92*, effective January 1, 2015.

ESA Action Plans are prepared under the following circumstances:

- 1) To support a finding of No Adverse Effect with Standard Conditions-ESA, in accordance with the Section 106 PA, Attachment 5.
- 2) As a measure for resolution of adverse effects under a Memorandum of Agreement (MOA) or with State Historic Preservation Officer (SHPO) concurrence in a finding of No Adverse Effect without Standard Conditions.
- 3) To support a finding of No Substantial Adverse Change under CEQA, demonstrating that impacts have been mitigated below the level of significance, and for state-owned historical resources, a Finding of No Adverse Effect under PRC 5024.
- 4) For long term protection of archaeological sites or other historic properties during maintenance or other activities.

ESA Action Plan Format

Title Page

- Name and type of project
- District, County, route and post-miles
- E-FIS³ project number and phase (For Local Assistance projects, use the Federal-Aid project number.)

ESA ACTION PLAN FORMAT

- | |
|---|
| <ul style="list-style-type: none">• Title Page• Summary of Action Plan• Project Description• Methods• Responsible Parties and Table• Attachments |
|---|

The page also includes:

- Prepared for: Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the plan was prepared. The DEBC's signature on the title page indicates approval and acceptance of the document
- Prepared by: Name, title, location and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepared the plan
- Reviewed for Approval by: Name, title, location and signature of the Caltrans Professionally Qualified Staff (PQS) who reviewed the plan for approval
- Month and year plan was prepared (appears at bottom of page) If a qualified consultant prepared the plan, the project contract number should appear below the

³ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

E-FIS project number (or Federal-Aid project number for Local Assistance projects)

Summary of ESA Action Plan

This section should contain the information necessary for all parties to understand the intent, methods and location of the ESA. It includes:

- A concise description (abstract) of the proposed project
- List of archaeological sites or other historic properties to be protected by the ESA(s)
- Methods of establishing the ESA
- Measures required during each stage of the project (pre-construction, during construction, post construction)
- Responsible parties for each measure
- Anticipated dates and duration for required measures.

Project Description

- 1) General scope of the proposed work, specifying project components relevant to the ESA action plan
- 2) Description of the regulatory context for which the plan was prepared (e.g., Section 106 PA Attachment 5, MOA, etc.)
- 3) List of archaeological sites or other historic properties to be protected within the project area, including a description of their locations relative to project activities
- 4) Citation of all pertinent maps or figures (Project Location, ESA boundaries, Project Area limits, construction plans, etc.)

Methods

Depending on whether the resource to be protected is an archaeological or cultural site or a built-environment historic property, protective measures to consider include signage, protective fencing, access restrictions, monitoring by PQS or qualified consultant archaeologists, architectural historians, and Native American monitors, and specific contractual language to ensure that construction contractors comply with the ESA Action Plan. Clearly state or explain the methods of ESA demarcation. Include a description of the type, size and placement of signage and/or fencing, as appropriate. If the ESA is not to be identified on the ground, indicate how the ESA will be recognized by personnel in the field and provide a reference to the ESA delineation on project plans. As appropriate, provide language to be used, in the

construction contract. Reference the Standard Special Provisions (SSP) or the Non-standard Special Provisions (NSSP). Questions regarding SSPs and NSSPs should be directed to the Chief of the Special Projects Archaeology Branch (SPA) in Headquarters Cultural Studies Office (CSO).

Monitors

Only a Caltrans PQS at the Co-PI level or above or similarly qualified consultant, or Caltrans staff under the direction of a Caltrans PQS Co-PI or above, serve as archaeological monitors. Similarly, only a Caltrans PQS Principal Architectural Historian, or similarly qualified consultant, or Caltrans staff under the direction of a Caltrans PQS Principal Architectural Historian or above, serve as built-environment monitors. If monitoring is required, a general rationale for the monitoring – as well as specific location, intervals, and duration – needs to be clearly stated. Provide reference to the attached project maps. Indicate if Native American monitors will be accompanying archaeological monitors, and the parameters of their participation, as agreed to through consultation.

Responsible Parties

Identify appropriate Caltrans staff, agency staff, consultants or others who are the responsible parties, as well as which aspects of the plan for which they are responsible. A clear chain of command should be established, with specific tasks and contact information identified for each responsible party (e.g., Caltrans PQS archaeologist or architectural historian, Environmental Construction Liaison, Resident Engineer). Identify the parties by Position/Title to ensure continuity of accountability in the event of personnel change on a project. All parties must be aware of and acknowledge their responsibilities. See the sample [ESA Action Plan Table](#) at the end of this exhibit.

Attachments

Include, as appropriate, the following:

- Project Area map
- The Project Area map must be at a scale to adequately demonstrate the relationship of the resources to project elements. An index map with detail sheets for individual ESAs within a single project may be needed.
- Engineering plans and/or profiles and cross-sections that show the actual limits of project impacts in relation to the ESAs
- Photographs or other useful graphics

Peer Review and Approval

Only Caltrans PQS (certified at the Principal Investigator Prehistoric Archaeology or Historical Archaeology, or Principal Architectural Historian levels, depending on the type of resource) may peer review ESA Action Plans or review them for approval, which the DEBC approves. After appropriate Caltrans PQS PI or Principal Architectural Historian has peer-reviewed the draft Plan and any necessary revisions have been made, the Caltrans PQS or consultant who prepares the ESA Action Plan signs, dates the final plan and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the ESA Action Plan for approval (if different than the preparer) likewise signs, dates, and includes his/her PQS discipline, level and District. The DEBC signs and dates the ESA Action Plan to signify final approval.

Transmittal

If the ESA action plan has been prepared in support of a finding of No Adverse Effect with Standard Conditions-ESA pursuant to the Section 106 PA or the 5024 MOU, the plan is included in the notification documents to Headquarters CSO in its assigned capacity for FHWA, or for State-owned historical resources as delegated by SHPO under the PRC 5024 MOU, and other consulting parties.

Sample ESA Action Plan Responsible Parties Table: Archaeological Sites

ESA ACTION PLAN: XYZ PROJECT: ARCHAEOLOGICAL SITES			
STAGE	RESPONSIBLE PARTIES With Contact Information (name, title and phone#) * denotes primary responsibility	TASK	DATE TASK COMPLETED
Pre-construction	Caltrans Archaeologist Caltrans Architectural Historian* Project Manager Project Engineer	Caltrans archaeologist will ensure that ESA for site CA- SFR-148 and the adjacent Archaeological Monitoring Area (AMA) is clearly described and illustrated in the plans, specifications and estimates (PS&E) Caltrans architectural historian will ensure that ESA for Bloomfield Farm entry and pillars is clearly described and illustrated in the plans, specifications and estimates (PS&E).	
	Caltrans Archaeologist Caltrans Project Manager Project Engineer	All responsible parties, including the Caltrans Archaeologist, will review the PS&E package. Ensure that SSP's for ESA and AMA are included in PS&E package.	
	Environmental Branch Chief Caltrans Archaeologist * Project Manager Project Engineer	Caltrans archaeologist will ensure the ESA Action Plan is included in Environmental Commitment Record (ECR) and the RE Pending File.	
	Caltrans Archaeologist Environmental Construction-Liaison * Resident Engineer Contractor	All responsible parties will ensure that ESAs are discussed during the pre-construction meeting. The importance of ESAs will be discussed with construction personnel and it will be stressed that no construction activity (including storage or staging of equipment or materials) should occur within the ESAs and that workers must remain outside of the ESAs at all times. Additionally, personnel will be informed of historic preservation laws that protect archaeological sites against any disturbance or removal of artifacts.	

ESA ACTION PLAN: XYZ PROJECT: ARCHAEOLOGICAL SITES			
STAGE	RESPONSIBLE PARTIES		DATE TASK COMPLETED
	With Contact Information (name, title and phone#) * denotes primary responsibility		
		TASK	
	Caltrans Archaeologist Environmental Branch Chief Environmental Construction-Liaison Resident Engineer * Contractor	The Resident Engineer will notify Caltrans Archaeologist and Environmental Branch Chief at least three weeks in advance of construction to ensure that a Caltrans archaeologist will be available to monitor fence installation and allow for field review of ESA locations	
	Caltrans Archaeologist * Environmental Construction-Liaison * Resident Engineer * Contractor *	All responsible parties perform field review of ESA and AMA locations at least one calendar week prior to construction activities.	
During Construction	Caltrans Archaeologist * Environmental Construction-Liaison Resident Engineer Contractor	Contractor will install temporary plastic fencing around site CA-SFR-148. The fencing will be installed at least one calendar week prior to initiating any work in those areas (see attached map). The Caltrans Archaeologist will coordinate this activity with the Environmental Construction Liaison and Resident Engineer, and be present to supervise and monitor fence installation.	
	Caltrans Archaeologist * Environmental Construction-Liaison * Resident Engineer	Caltrans Archaeologist will be present to monitor all construction activities within the AMA. The Environmental Construction Liaison will conduct a weekly inspection to ensure the integrity of ESAs.	
Post Construction	Caltrans Archaeologist Environmental Construction-Liaison	The Environmental Construction Liaison will inform the Caltrans Archaeologist when construction is complete.	
	Caltrans Archaeologist Environmental Construction-Liaison Contractor	The Contractor, under supervision of the Environmental Construction Liaison and/or Caltrans Archaeologist, will remove temporary fencing at the conclusion of construction.	
Responsible parties as of 10-01-12	Caltrans Archaeologist Environmental Branch Chief Environmental Construction-Liaison Resident Engineer Contractor	Sam Digs Cory Lately Leslie Morley Nico Radi To be determined	sdigs@dot.ca.gov 415-555-1234 clately@dot.ca.gov 415-555-1235 lmorley@dot.ca.gov 415- 555-1236 nradi@dot.ca.gov 415- 555-1237

Sample ESA Action Plan Responsible Parties Table: Built-Environment Historic Property

ESA ACTION PLAN: XYZ PROJECT: BUILT ENVIRONMENT PROPERTIES			
RESPONSIBLE PARTIES With Contact Information (name, title and phone#) * denotes primary responsibility		TASK	DATE TASK COMPLETED
STAGE			
Pre-construction	Caltrans Architectural Historian* Project Manager Project Engineer	Caltrans Architectural Historian will ensure that ESA for the Lucas McCain Barn is clearly described and illustrated in the plans, specifications and estimates (PS&E).	
	Caltrans Architectural Historian Project Manager Project Engineer	All responsible parties, including the Caltrans Architectural Historian, will review the PS&E package. Ensure that SSP's for ESA are included in PS&E package.	
	Environmental Branch Chief Caltrans Architectural Historian * Project Manager Project Engineer	Caltrans Architectural Historian will ensure the ESA Action Plan is included in Environmental Commitment Record (ECR) and the RE Pending File.	
	Caltrans Architectural Historian Environmental Construction-Liaison * Resident Engineer Contractor	All responsible parties will ensure that ESAs are discussed during the pre-construction meeting. The importance of ESAs will be discussed with construction personnel and it will be stressed that no construction activity (including storage or staging of equipment or materials) should occur within the ESAs and that workers must remain outside of the ESAs at all times. Additionally, personnel will be informed of historic preservation laws that protect historic properties against any disturbance or removal of artifacts.	
	Caltrans Architectural Historian Environmental Branch Chief Environmental Construction-Liaison Resident Engineer * Contractor	The Resident Engineer will notify Caltrans Architectural Historian and Environmental Branch Chief at least three weeks in advance of construction to ensure that a Caltrans Architectural Historian will be available to monitor fence installation and allow for field review of ESA locations	
	Caltrans Architectural Historian * Environmental Construction-Liaison * Resident Engineer * Contractor *	All responsible parties perform field review of ESA locations at least one calendar week prior to construction activities.	

ESA ACTION PLAN: XYZ PROJECT: BUILT ENVIRONMENT PROPERTIES				
RESPONSIBLE PARTIES				
With Contact Information (name, title and phone#)				
STAGE	TASK			DATE TASK COMPLETED
	* denotes primary responsibility			
During Construction	Caltrans Architectural Historian * Environmental Construction-Liaison Resident Engineer Contractor	Contractor will install temporary plastic fencing around site the Lucas McCain Barn. The fencing will be installed at least one calendar week prior to initiating any work in those areas (see attached map). The Caltrans Architectural Historian will coordinate this activity with the Environmental Construction Liaison and Resident Engineer, and be present to supervise and monitor fence installation.		
	Caltrans Architectural Historian * Environmental Construction-Liaison Resident Engineer	Caltrans Architectural Historian will be present to monitor all construction activities adjacent to the ESA. The Environmental Construction Liaison will conduct a weekly inspection to ensure the integrity of ESAs.		
Post Construction	Caltrans Architectural Historian Environmental Construction-Liaison	The Environmental Construction Liaison will inform the Caltrans Architectural Historian when construction is complete.		
	Caltrans Architectural Historian Environmental Construction-Liaison Contractor	The Contractor, under supervision of the Environmental Construction Liaison and/or Caltrans Architectural Historian, will remove temporary fencing at the conclusion of construction.		
Responsible parties as of 10-22-12	Caltrans Architectural Historian	Iona Bevel	ibevel@dot.ca.gov	213-555-1234
	Environmental Branch Chief	Sky Ribeiro	sribeiro@dot.ca.gov	213- 555-1235
	Environmental Construction-Liaison	Joe Moratore	jmoratore@dot.ca.gov	213-555-1236
	Resident Engineer	Luis Agenciar	lagenciar@dot.ca.gov	213-555-1237
	Contractor	To be determined		

EXHIBIT 2.8: Finding of No Adverse Effect Format and Content Guide

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EXHIBIT 2.8: Finding of No Adverse Effect Format and Content Guide

Introduction

In accordance with the Section 106 Programmatic Agreement (Section 106 PA¹) [Stipulation XVIII](#), the Finding of No Adverse Effects reports must be consistent with the documentation standards set forth in [36 CFR 800.11](#). For State-owned historical resources, the Finding of No Adverse Effects reports must be consistent with the Public Resources Code 5024 Memorandum of Understanding² ([5024 MOU](#)).

Findings of No Adverse Effects with Standard Conditions

There are two types of Findings of No Adverse Effects with Standard Conditions (FNAE-SC): those for which the standard condition is the establishment of an Environmentally Sensitive Area (FNAE-SC: ESA) that protects a historic property, and those for which the standard condition is the use of the Secretary of the Interior's Standards for the Treatment of Historic Properties and relevant guidance (FNAE-SC: SOIS) to avoid adverse effect. For State-owned historical resources there is a third type of standard condition for the transfer or relinquishment of State-owned historical resources that have been designated under a Certified Local Government (CLG) preservation ordinance (FNAE-SC: CLG Designation).

When Caltrans finds that one or more of the FNAE-SCs outlined in [Section 106 PA Stipulation X.B.1](#) and [5024 MOU Stipulation X.B.1](#) and [Attachment 5](#) are applicable, Caltrans districts submit the finding and supporting documentation to the Headquarters

FNAE-SC Tips:

- FNAE-SCs may be included in an HPSR/HRCR or a Supplemental HPSR/HRCR.
- The 15-day review period will **not** begin until CSO and FHWA as applicable, receives complete supporting documentation.
- Complete documentation for FNAE-SC: ESA is the ESA Action Plan **and** all of its attachments; see Exhibit 2.7.
- Complete documentation for FNAE-SC: SOIS is the SOIS Action Plan **and** all of its attachments; see Exhibit 7.1.
- FNAE-SCs are contingent on SHPO's concurrence on National Register eligibility.
- Section 106/PRC 5024 is complete when the CSO and FHWA as applicable do not object to the FNAE-SC: ESA, SOIS or CLG Designation within 15 days of receipt.

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

² *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*, effective January 1, 2015.

Cultural Studies Office (CSO) for a 15-day review and approval. This finding may be accomplished by checking the appropriate box in the “HPSR/HRCR to CSO” section of the HPSR or Supplemental HPSR/HRCR form and for State-owned historical resources affected by federal undertakings in the Findings for State-owned Properties “Findings to CSO” section of the HPSR, or adding a statement to that effect in a narrative HPSR/HRCR or Supplemental HPSR/HRCR, and attaching, as appropriate:

1. FNAE-SC: ESA. An Environmentally Sensitive Area (ESA) Action Plan in accordance with [Section 106 PA/5024 MOU](#) Stipulation X.B.1a, [Exhibit 2.7](#), [Chapter 5](#) and [Chapter 2](#) Section 2.4.3 contain guidance and information for ESA Action Plans.
2. FNAE-SC: SOIS. Secretary of the Interior’s Standards for the Treatment of Historic Properties (SOIS) Action Plan in accordance with [Section 106 PA/5024 MOU](#) Stipulation X.B.1.b, [Exhibit 7.5](#) contain guidance and information for SOIS Action Plans.
3. FNAE-SC: CLG Designation: A copy of the CLG designation resolution or approval in accordance with 5024 MOU [Stipulation X.B.1.c](#) and [Attachment 5](#).

Notification of Finding of No Adverse Effect with Standard Conditions

When Caltrans finds that the FNAE-SCs outlined in [Section 106 PA/5024 MOU](#) Stipulation X.B.1 are applicable, the Caltrans district submits a hard copy of the finding and supporting documentation (ESA Action plan and attachments or SOIS Action Plan and attachments or CLG designation) to CSO for a 15-day review, concurrently provide documented notification of the finding to any consulting parties that have expressed views regarding potential effects to historic properties. For projects where Caltrans has not assumed FHWA’s responsibilities for environmental review and compliance, the Caltrans district concurrently submits the finding and supporting documentation to CSO and FHWA.

If CSO or FHWA does not object to the FNAE-SC: ESA or FNAE-SC: SOIS, or FNAE-SC: CLG Designation within 15 days of receipt, Section 106/PRC 5024 is complete, pursuant to [Section 106 PA/5024 MOU](#) Stipulation X.B.1.

Headquarters CSO is responsible for providing summary notifications to the SHPO of all NAE-SC findings on a quarterly basis in accordance with [Section 106 PA Stipulation XX.G.3](#) and [5024 MOU Stipulation XIX.E](#).

Headquarters CSO Review

Upon receipt of a FNAE-SC, Headquarters CSO will log in the finding and assign it to a PQS staff in the appropriate discipline for review. If the documentation is sufficient and CSO agrees with the finding, the CSO PQS staff doing the review will e-mail the Caltrans district of the finding and copy the CSO Section 106 Programmatic Agreement and Coordination Branch Chief (Section 106 Branch Chief) or the Built Environment Preservation Services Branch Chief (BEPS Chief), as appropriate. If the documentation is incomplete or the Standard Conditions have been inappropriately applied, the Section 106/BEPS Chief will respond to the Caltrans district either via e-mail or by mailing a memo.

The 15-day review period begins when Headquarters CSO has received complete FNAE-SC documentation.

If there are questions on the finding or if it has been inappropriately applied, the 15-day review period is suspended until the district provides the additional requested information. Headquarters CSO staff, however, will make every effort to work with district staff to resolve the questions or application of the Standard Conditions within 15 days.

Timing of Review

Depending on the timing of a project and when the supporting documentation for a FNAE-SC is complete, it is possible to transmit the finding in an HPSR/HRCR by completing the HPSR/HRCR to CSO and HPSR/HRCR to SHPO sections and simultaneously sending the HPSR/HRCR to SHPO for concurrence on National Register of Historic Places (NRHP) eligibility, or California Historical Landmark (CHL) eligibility for State-owned resources, and to CSO, or FHWA as applicable, for review of the FNAE-SC finding. Keep in mind that the FNAE-SC is contingent upon SHPO concurring that the properties subject to the FNAE-SC are eligible for inclusion in the NRHP and/or CSO approval that properties are considered NRHP eligible for purposes of the project only pursuant to the [Section 106 PA Stipulation VIII.C.4](#) or [5024 MOU Stipulation VIII.C.4](#) for State-owned cultural resources.

If SHPO previously concurred with NRHP eligibility and/or CSO previously approved properties that are considered eligible as described above, a Supplemental HPSR/HRCR may be prepared, completing only the relevant sections, attaching the ESA Action Plan, SOIS Action Plan, or CLG Designation as applicable, and transmitting the documentation to CSO/FHWA, as described above.

Effects Re-Assessment

If the undertaking will not be implemented as proposed relative to the historic properties, the Caltrans District PQS must determine whether to re-open consultation on effects, pursuant to [Section 106 PA/5024 MOU](#) Stipulation X and consistent with [36 CFR 800.5\(d\)\(1\)](#), or PRC 5024(f) or PRC 5024.5, as applicable.

State Projects

For compliance with CEQA, when a project also is a federal undertaking and Caltrans is the lead CEQA agency, complete the CEQA Considerations Section of the HPSR and refer to the appropriate FNAE-SC: ESA and/or FNAE-SC: SOIS attached documentation. Provide this documentation to the district generalist for the CEQA findings.

When a project or activity is *not* a federal undertaking, complete a Historical Resources Evaluation Report (HRCR), using a determination of no substantial change to CEQA historical resources or reduced to the level of less than significant impact through the establishment of ESAs or the application of the SOIS, and attach the ESA Action Plan or SOIS Action plan as appropriate.

Finding of No Adverse Effect without Standard Conditions

When it is possible to avoid adverse effects to historic properties by placing conditions on the project that are not standard conditions, as described above, or when consulting with Tribal Historic Preservation Officers (THPOs) that have assumed Section 106 responsibilities, it is still possible to have a Finding of No Adverse Effect without Standard Conditions (FNAE-No SC) either because the project design will result in an effect, but the effect is not adverse, or by placing conditions on the project to avoid adverse effect. The compliance process under the Section 106 PA however is slightly different in that after CSO review, the finding is forwarded to SHPO for review.

FNAE Tips:

- FNAE without Standard Conditions is a stand-alone document, and is first sent to CSO and FHWA as applicable, not to SHPO/THPO. For state-only projects, they can be combined in the HRCR.
- CSO, and FHWA as applicable, will begin reviewing when the finding with **complete** supporting documentation is received.
- CSO forwards the FNAE to SHPO/THPO and notifies FHWA.
- Approvals by CSO, and FHWA as applicable, are contingent on SHPO/THPO's concurrence on NRHP eligibility.
- Section 106/PRC 5024 is complete when SHPO/THPO concurs with the FNAE.

Notification of Finding of No Adverse Effect without Standard Conditions

When Caltrans proposes a finding of No Adverse Effect *other* than a finding of No Adverse Effect with Standard Conditions, the Caltrans District submits two hard copies of the proposed FNAE and its supporting documentation, and an electronic (Microsoft Word) copy of the transmittal letter to CSO for review. If CSO agrees with the finding, CSO will forward the FNAE to SHPO/THPO for review, as outlined in [Section 106 PA Stipulation X.B.2.](#)

For State-owned historical resources the notification process is the same for those resources that are on the Master List of Historical Resources (Master List; see [5024 MOU Stipulation IV.E](#) for a definition), and the process is outlined in [5024 MOU Stipulation X.B.2.c.](#)

For State-owned historical resources that are *not* on the Master List, CSO has 15 days to review the finding and it does not go to SHPO unless there is a disagreement that cannot be resolved between the district and CSO or there is public concern. If CSO does not object within 15 days PRC 5024 compliance is complete.

Headquarters CSO Review

Upon receipt of the FNAE, Headquarters CSO will log in the finding and assign it to a PQS staff to review. If the documentation is sufficient and CSO agrees with the finding, the Section 106 Chief will forward the FNAE and supporting documentation to SHPO/THPO for review and notify the district. For projects where Caltrans has not assumed FHWA's responsibilities for environmental review and compliance, CSO concurrently notifies FHWA of the finding.

Upon receipt of notification from the Section 106 Chief, the Caltrans district then concurrently provides documented notification of the FNAE to consulting parties that have expressed views regarding potential effects to historic properties and request that any comments be directed to CSO, or FHWA as appropriate, within 30 days of receipt of notification from the Caltrans district.

If the documentation is insufficient, the Section 106 Branch Chief will respond via email or mailing a memo on what is additional information or documentation is required. The CSO staff assigned to the project will work directly with District staff to revise the FNAE. When the FNAE is sufficient and final, the Section 106 Chief will forward the FNAE to SHPO following the process described above. The Caltrans district then concurrently provides documented notification of the FNAE to consulting parties as described above.

SHPO/THPO Review

SHPO/THPO has 30 calendar days within which to review the FNAE. Confirmation of SHPO/THPO's date of receipt as the basis for determining the 30-day review period may be

provided through the SHPO database, a mail delivery receipt, or written or documented oral communication from the SHPO/THPO.

If neither SHPO/THPO nor any consulting party objects to the FNAE within 30 calendar days of receipt, Section 106 compliance for the undertaking is complete, as outlined in [Section 106 PA Stipulation X.B.2.b](#), and for State-owned historical resources, PRC 5024 compliance is completed as outlined in [5024 MOU Stipulation X.B.2.d](#).

CSO and SHPO (or FHWA where Caltrans has not assumed FHWA's responsibilities for environmental review and compliance, and SHPO) may agree to extend the 30-day time frame for SHPO's review. But, if the 30-day period expires *without* SHPO comment or agreement to extend the review period, Caltrans may move forward upon the District's notification to the SHPO via e-mail or other written communication. Disagreements or objections to a finding of no adverse effect will be addressed in accordance with [Section 106 PA Stipulation X.D](#) for federal undertakings and in accordance with [5024 MOU Stipulation X.F](#) for State-owned historical resources.

Effects Re-Assessment

If the undertaking/state-only project or activity will not be implemented as proposed relative to the historic properties, the Caltrans District PQS must determine whether to re-open consultation on effects, pursuant to Section 106 PA [Stipulation X](#) and consistent with [36 CFR 800.5\(d\)\(1\)](#), and for State-owned historical resources, pursuant to [5024 MOU Stipulation X](#).

FNAE Format and Content

Caltrans district PQS or a consultant prepares an FNAE document for CSO review according to the following outline:

Title Page

The title page identifies the project by:

- Name of project in a brief descriptive title, such as "Finding of No Adverse Effect for Curve Correction on Route 989 between Forestview Drive and Limekiln Road"
- County, route and post-miles

- E-FIS³ project number and phase (For Local Assistance projects, use the Federal-Aid project number.)

The page also includes

- Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the document was prepared. The DEBC's signature on the title page indicates approval and acceptance of the document
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepared the document, along with the address for the PQS
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) who reviews the document for approval, along with the address for the PQS
- Month and year FOE was prepared (appears at bottom of page) If a consultant PQS prepares the FOE, the project contract number should appear below the E-FIS project number (or Federal-Aid project number for Local Assistance projects)

Introduction

Summarize the project Section 106/5024 MOU compliance activities to date. Include the date the HPSR/HRCR was processed and briefly describe the historic properties and their NRHP status. Specify the properties for which there will be No Adverse Effect as a result of the project, and any for which a No Historic Properties Affected/No State-owned Historical Resources Affected finding is applicable.

For the undertaking as a whole, state that Caltrans, in applying the Criteria of Adverse Effect, proposes that an FNAE is appropriate and is seeking SHPO's concurrence in the finding, pursuant to 36 CFR 800.5(c) and [Section 106 PA Stipulation X.B.2](#). Similarly, for State-owned historical resources state at Caltrans, in applying the List of Adverse Effects proposes that an FNAE is appropriate and

FINDING OF NO ADVERSE EFFECT FORMAT

- Title page
- Introduction
- Description of Undertaking/Project/Activity
- Public Participation
- Description of Historic Properties/Historical Resources
- Application of the Criteria of Adverse Effect
- Conditions Proposed
- Conclusions
- Attachments
 - Maps
 - Correspondence
 - Other Exhibits

Don't forget an electronic word version of the draft transmittal letter to CSO, SHPO or THPO.

³ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

is seeking SHPO's concurrence in the finding (for state-owned historical resources on the Master List) and is notifying CSO of the finding (for state-owned historical resources not on the Master List) pursuant to [5024 MOU Stipulation X.B.2](#).

Description of the Undertaking, Project or Activity

- Identify the undertaking, project or activity (project) by district, county, route, and postmile limits, and indicate distance to the nearest town or other landmark. Identify the APE/PAL, and refer to attached maps, photographs, and drawings, as necessary.
- Describe the project concisely but with sufficient detail to ensure that a reviewer unfamiliar with the project or project area has a clear understanding of the extent of potential effects.
- Discuss all pertinent project-related activities and alternatives.

Public Participation

- Summarize efforts to involve the public in the Section 106 process as well as any comments received to date. For State-owned historical resources subject to the 5024 MOU, describe consultation with tribes and interested parties.
- Identify any additional consulting parties, such as other federal and state agencies, Native Americans, or local governments, and summarize consultation efforts and results to date.
- Describe the ongoing NEPA environmental process, including environmental compliance events such as public hearings.
- Emphasize cultural resources issues discussed at public meetings, and if concerns have been raised, discuss steps taken to ensure public concerns are incorporated into the Section 106 process.

Description of Historic Properties

Provide a brief description of the steps taken to identify historic properties or State-owned historical resources, as applicable. Discuss any comments received from the public or consulting parties that aided in the identification process.

Describe each affected historic property, including

- Date of NRHP listing; date of Keeper determination of NRHP eligibility, stating that it was a Keeper determination of eligibility; date of SHPO concurrence with the determination of eligibility, stating that it was a consensus determination; or state that an eligibility consensus determination with SHPO is pending, as applicable.
- NRHP Criteria under which the property is listed or eligible, including a brief reason why and the level(s) and period(s) of significance.
- Brief NRHP boundary description

- Description and ranking of their essential physical features, also known as character-defining features (CDFs), see [Exhibit 7.1](#).
- Photographs of the historic properties, including a general contextual view(s) and views depicting CDFs that would be affected by the proposed project work.

For built-environment properties, while these descriptions can be in narrative format, it may be more efficient to use a Character-defining Features Summary Form (CDF Summary Form) for each affected historic property. To reduce text in this section of the FNAE-No SC, the form can be attached to the FNAE-No SC with reference made to the form(s) in this section of the plan instead of a narrative description. In addition, these forms also can be provided in advance to the project manager and project team for reference when developing treatments that would avoid or minimize impact.

CDF Summary Form templates are available on the Caltrans *Standard Environmental Reference Volume 2-Cultural Resources* ([SERv2](#)) website and their use is explained in [Exhibit 7.1](#).

Application of the Criteria of Adverse Effect

- Discuss the application of the Criteria of Adverse Effect for each historic property. State the specific criteria that apply and describe in detail why the effect is not adverse.
- Describe the physical effects of the project on each property, as well as any indirect effects, such as increased noise or introduction of visual elements out of character with the property.
- Provide sufficient detail to allow a reviewer not familiar with the project or the project area to understand the extent of any direct or indirect effects on each historic property (see [Exhibit 2.15](#) for additional guidance).

Similarly, apply the List of Adverse Effects to State-owned historical resources (see [5024 MOU Stipulation IV.D](#) for the list), and follow the process above.

Discussion of No Adverse Effect and Conditions Proposed

- Include a justification why the project as designed would result in no adverse effect (e.g., sliver takes of non-contributing elements that do not diminish the characteristics that make a property NRHP eligible). No Action Plan is required when conditions do not need to be imposed, but responsible parties need to be identified.
- Discuss in detail any conditions proposed to avoid adverse effect to each historic properties.

- Present separate sub-sections on engineering conditions (e.g., modifications to the undertaking) and conditions directly related to the property itself (e.g., establishing an ESA, replacement of historic materials in kind).
- If ESAs are proposed, an ESA Action Plan⁴ that discusses specific protection and enforcement measures for each property, as described in [Exhibit 2.7](#) is included as an attachment.
- If use of the SOIS is proposed, an SOIS Action⁵ Plan that discusses the measures, as described in [Exhibit 7.5](#), for each historic property is included as an attachment.
- If the transfer/relinquishment is for a State-owned historical resource that has been designated under a CLG preservation ordinance, provide the name of the CLG and a copy of the designation, as described in the [5024 MOU Stipulation Attachment 5](#).
- If conditions are imposed other than use of an ESA, the SOIS, or the CLG designation, include an FNAE Action Plan as an attachment that discusses those conditions; follow the Action Plan format in either the ESA or SOIS Action Plan exhibits 2.7 and 7.5, respectively.

Responsible Parties

Identify appropriate Caltrans staff, agency staff, consultants or others who are the responsible parties, as well as which aspects of the plan for which they are responsible. A clear chain of command should be established, with specific tasks and contact information identified for each responsible party (e.g., Caltrans PQS Principal Architectural Historian, Environmental Construction Liaison, Resident Engineer). Identify the parties by Position/Title to ensure continuity of accountability in the event of personnel change on a project. All parties must be aware of and acknowledge their responsibilities. See the sample [Action Plan Tables](#) in [Exhibit 2.7: ESA Action Plan](#) or [Exhibit 7.5 SOIS Action Plan](#)

Conclusions

Briefly summarize the contents of the document that resulted in the Finding of No Adverse Effect. If warranted, include a table that summarizes effects and conditions proposed for each historic property and alternative (see Table 1 below).

Table 1. Example Table for Finding of No Adverse Effect Document

Property	Effect Finding (Alt. 1)	Avoidance / Minimal Impact
CA-ABC-1234	Not Adverse - indirect potential for destruction	ESA – see ESA Action Plan
Jones House	Not Adverse – ROW take of non-contributing element	N/A

⁴ When the undertaking will occur on or affect lands held in trust by Indian tribes or the Section 106 PA otherwise does not apply, the FNAEs with Standard Conditions also do not apply. Establishment of ESAs, as described in the Section 106 PA Attachment 5 also may be used here. The review times, however are different.

⁵ Like the ESA Action Plan, use of the SOIS as described in the Section 106 PA Attachment 5 also may be used here.

Table 1. Example Table for Finding of No Adverse Effect Document

Property	Effect Finding (Alt. 1)	Avoidance / Minimal Impact
City Park	Not Adverse – ROW take of non-contributing element	N/A

Property	Effect Finding (Alt. 2)	Mitigation
CA-ABC-1235	Not Adverse – indirect potential for destruction	ESA – see ESA Action Plan
Jones House	Not Adverse – new soundwall	New soundwall is at the rear of the house within the ROW and the design for all soundwalls in the APE are compatible with the surrounding environment including the Jones House
City Park	Not Adverse – ROW take of non-contributing element	N/A

Attachments

Include the following attachments:

- Project Vicinity Map
- Project Location Map
- Project APE/PAL Map (detail location of the historic property, including the NRHP boundaries, in relation to the project and depict project effects on the property)
- Correspondence with the SHPO, Native Americans, and any other consulting parties, or the public (e.g., local government agency)
- Exhibits pertaining to the historic properties discussed (e.g., photographs, construction drawings, photo simulations)
- FNAE Action Plan Table (and/or ESA Action Plan for archaeological properties)
- Restrictions or conditions to ensure preservation such as a local agency resolution or protective covenants (for buildings and structures)

When Adverse Effects Cannot be Avoided

See [Exhibit 2.9](#) for guidance in preparing a Finding of Adverse Effect.

Exhibit 2.9: Finding of Adverse Effect Format and Content Guide

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Exhibit 2.9: Finding of Effect Format and Content Guide

Introduction

In accordance with Section 106 Programmatic Agreement (Section 106 PA¹) [Stipulation XVIII](#), Finding of Effect reports must be consistent with the documentation standards set forth in 36 CFR 800.11.

Finding of Adverse Effect

When Caltrans proposes that adverse effects cannot be avoided, Caltrans prepares the Finding of Adverse Effect (FAE) documentation and sends it to CSO for review. CSO will then consult with SHPO. The Caltrans district sends notification of the findings to the consulting parties and interested members of the public, as appropriate. The Caltrans district also assists CSO in resolving the adverse effects. (See Section 106 PA [Stipulation X.1](#) and [XI](#).)

FINDING OF ADVERSE EFFECT FORMAT

- Title page
- Introduction
- Description of Undertaking
- Public Participation
- Description of Historic Properties
- Application of the Criteria of Adverse Effect
- Alternatives Considered But Rejected
- Mitigation Measures
- Conclusions
- Attachments
 - Maps
 - Correspondence
 - Other Exhibits

Don't forget the transmittal letter for FAEs to SHPO or THPO.

Adverse Effects to Archaeological Properties Listed/Eligible under Criterion D *Only*

When Caltrans proposes that the adverse effects are to archaeological properties listed or determined eligible for inclusion in the National Register *exclusively* under Criterion D, the Caltrans district simultaneously notifies and sends the supporting documentation to CSO, SHPO and other consulting parties. (See [Section 106 PA Stipulations X.C.2](#) and [XI](#).)

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

Adverse Effect Documentation

An Adverse Effect finding should be documented according to the following outline.

Title Page

The title page identifies the project by:

- Name of project in a brief descriptive title, such as “Finding of Adverse Effect for Route Realignment on Route 53 between Fern Creek and Matador Road”
- County, route and post-miles
- E-FIS project number (or Federal-Aid project number for Local Assistance projects)

The page also includes

- Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the report was prepared. The DEBC’s signature on the title page indicates approval and acceptance of the document
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepared the document, along with the address for the PQS
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) who reviews the document for approval, along with the address for the PQS
- Month and year FAE was prepared (appears at bottom of page) If a consultant PQS prepares the FAE, the project contract number should appear below the E-FIS project number (or Federal-Aid project number for Local Assistance projects)

Introduction

- Summarize the project Section 106 compliance activities to date. Include the date the HPSR was processed, and briefly describe the historic properties and their National Register status.
- Specify the properties for which there will be an Adverse Effect as a result of the project, and any for which a No Adverse Effect or No Historic Properties Affected finding is applicable.
- State that “Caltrans has determined that the undertaking as a whole will have an Adverse Effect on historic properties pursuant to [Section 106 PA Stipulation X.C](#) and is consulting SHPO regarding this finding (or seeking SHPO concurrent with this finding), pursuant to [Section 106 PA Stipulation XI](#), [36 CFR 800.6\(a\)](#), and [800.6\(b\)\(1\)](#).

Description of the Undertaking

- Identify the project by district, county, route, and postmile limits, and indicate distance to the nearest town or other landmark.
- Identify the APE, and refer to attached maps, photographs, and drawings, as necessary.
- Describe the project concisely but with sufficient detail to ensure that a reviewer unfamiliar with the project or project area has a clear understanding of the extent of potential effects.
- Discuss all pertinent project-related activities and alternatives.

Public Participation

- Summarize efforts to involve the public in the Section 106 process as well as any comments received to date.
- Identify any additional consulting parties, such as other federal and state agencies, Native Americans, or local governments. Summarize consultation efforts and results to date.
- Describe the ongoing NEPA environmental process, including environmental compliance events such as public hearings.
- Emphasize cultural resources issues discussed at public meetings, and if concerns have been raised, discuss steps taken to ensure public concerns are incorporated into the Section 106 process.

Description of Historic Properties

Provide a very brief description of the steps taken to identify historic properties. Discuss any comments received from the public or consulting parties that aided in the identification process.

For each historic property, provide:

- Date the property was listed on the National Register
- Date the Keeper of the National Register determined the property eligible, if applicable, and state that it was a Keeper determination of eligibility
- Date that SHPO concurred with Caltrans' determination regarding National Register eligibility; or
- Statement that an eligibility consensus determination is pending, as applicable
- Concise description of each historic property with emphasis on the characteristics that qualify it for the National Register. See [Exhibit 7.1](#) for more information on essential physical features.

For each historic property, specify:

- National Register criteria for which each property is eligible
- Level and period of significance
- National Register boundaries
- Contributing and non-contributing elements

The summary statements of significance and property descriptions in the HPSR may be used (see [Exhibit 2.15](#) for textual information to include in the summary statements).

Application of the Criteria of Adverse Effect

- Discuss the applicable Criteria of Adverse Effect, and explain in detail why the effect is adverse.
- Describe the physical effects of the undertaking on each property, including any indirect effects such as increased noise or introduction of visual elements out of character with the property.
- For every alternative, describe the direct and/or indirect effect the alternative will have on each historic property. See [Exhibit 2.15](#) for additional guidance.

Alternatives Considered but Rejected

Describe alternatives that were considered but rejected, and the rationale for the rejection, particularly any “avoidance” alternatives (i.e., an alternative that would not adversely affect historic properties).

- Description and graphics may be derived from the “Alternatives” discussion in the environmental document.
- Discussion should focus on the effects of the various alternatives upon identified historic properties, however.

Mitigation Measures

This section is included in a finding of Adverse Effect document *only* when it is accompanied by a draft Memorandum of Agreement (MOA). If a draft MOA is not attached, this information is discussed in a consultation document that accompanies the MOA and is forwarded by CSO to SHPO under a separate cover.

Discuss any measures proposed to avoid, minimize, or mitigate the adverse effects to each historic property (e.g., implementation of a Data Recovery Plan or historic property marketing plan).

Conclusions

- Briefly summarize the contents of the document that resulted in the finding of Adverse Effect.
- State that Caltrans finds that there are historic properties affected pursuant to [Section 106 PA Stipulation IX.B.](#)
- State that Caltrans has determined that the undertaking as a whole will have an Adverse Effect on the following historic properties and is seeking SHPO concurrence with these findings pursuant to Section 106 PA [Stipulation XI.C](#) and 36 CFR 800.5. (*List historic properties.*) Caltrans will continue consultation regarding resolution of adverse effects pursuant to Section 106 PA Stipulation XI, and 36 CFR 800.6 through preparation of an MOA in consultation with consulting parties.
- If applicable, refer to the attached draft MOA, which stipulates the terms under which the undertaking will be implemented in order to take into account its effects on historic properties.
- If the draft MOA does not accompany the FAE document, state that this document serves only to obtain SHPO concurrence that the undertaking will have an Adverse Effect on historic properties and that mitigation measures will be discussed in a separate consultation document along with a draft MOA.

If warranted, include a table that summarizes effects and mitigation measures at each property for each alternative (see Table 1 below).

Table 1. Example Tables for Finding of Adverse Effect Document

Property	Effect Finding (Alt. 1)	Mitigation
CA-ABC-1234	Not Adverse - indirect potential for destruction	ESA – see ESA Action Plan
Jones House	None – avoidance	N/A
City Park	Not Adverse – ROW take of non-contributing element	N/A
Property	Effect Finding (Alt. 2)	Mitigation
CA-ABC-1234	Adverse – destruction	Data Recovery Plan
CA-ABC-1235	Not Adverse – indirect potential for destruction	ESA – see ESA Action Plan
Jones House	None – avoidance	N/A
Jones Creek Bridge	Adverse – destruction	HAER
City Park	Not Adverse – ROW take of non-contributing element	N/A

Attachments

- Project Vicinity Map
- Project Location Map
- Project APE Map (detail location of the historic property, including the National Register boundaries, in relation to the project and depict project effects on the property)
- Correspondence with the SHPO, Native Americans, and any other consulting parties or the public (e.g., local governments)
- Exhibits pertaining to the historic properties discussed (e.g., photographs, construction drawings, photo simulations)
- ESA Action Plan, if applicable (for archaeological properties)
- Data Recovery Plan (for archaeological properties)
- Restrictions or conditions to ensure preservation, such as a local agency resolution or protective covenant (for buildings and structures)

**FINDING OF ADVERSE EFFECT
FORMAT**

- Title page
- Introduction
- Description of Undertaking
- Public Participation
- Description of Historic Properties
- Application of the Criteria of Adverse Effect
- Alternatives Considered But Rejected
- Mitigation Measures
- Conclusions
- Attachments
 - Maps
 - Correspondence
 - Other Exhibits

Don't forget the transmittal letter for FAEs to SHPO or THPO.

State-owned Historical Resources

For State-owned historical resources FAE reports must be consistent with the documentation standards set for in the PRC 5024 Memorandum of Understanding (5014 MOU²) [Stipulation XVII](#). The format and content of the FAE report follows what is described above in this exhibit.

² Memorandum of Understanding Between the California Department of Transportation and the California Historic Preservation Officer Regarding Compliance with Public Resources Code Section 5024 and Governor's Executive Order W-26-92, effective January 1, 2015.

The key differences between the Section 106 and the PRC 5024 processes are:

1. The term “Resolution of Adverse Effects” is not used. There is only “mitigation” of adverse effects under PRC 5024.
2. The FAE report and request for concurrence may be combined in the same Historical Resources Compliance Report (HRCR) as the identification and evaluation findings. For more information see [Chapter 2 Section 2.8.7.4](#) and [5024 MOU Stipulation X.D.](#)
3. For NRHP/California Historical Landmark eligible State-owned archaeological resources, *not* on the Master List of Historical Resources (Master List; see [5024 MOU Stipulation IV.E](#) for a definition of what is on and not on the Master List), a Finding of Adverse Effect with Standard Mitigation Measures (FNAE-SMM) may be used and is sent to CSO for a 30-day review. For more information see [Chapter 2 Section 2.8.7.1](#) [5024 MOU Stipulation X.C.1](#), and Exhibit 2.14.
4. FAEs for State-owned Historical Resources *not* on the Master List of Historical Resources (Master List; see [5024 MOU Stipulation IV.E](#) for a definition) are sent only to CSO for a 30-day review and are not forwarded to SHPO. For more information see [Chapter 2 Section 2.8.7.2](#), [5024 MOU Stipulation X.C.2.a](#), and Exhibit 2.14.
5. All FAEs for State-owned Historical Resources *on* the Master List are sent first to CSO for review then forwarded to SHPO with a request for concurrence. For more information see [Chapter 2 Section 2.8.7.2](#), [5024 MOU Stipulation X.C.2.b](#), and Exhibit 2.14.
6. When there is public interest or controversy, all FAEs—whether or not the State-owned historical resource is on the Master List—are first sent to CSO for review then forwarded to SHPO with a request for concurrence. For more information see Chapter 2 [Section 2.8.7.3](#) and [5024 MOU Stipulation X.E.](#)
7. If Caltrans and SHPO cannot agree on prudent and feasible mitigation measures, SHPO forwards the disagreement to the Office of Planning and Research (OPR) for arbitration and OPR’s decision is final and binding. For more information see [5024 MOU Stipulation X.F.](#)

Caltrans Peer Review and Approval

Under the Section 106 PA/5024 MOU the Caltrans PQS or a qualified consultant prepares the FAE. Only Caltrans PQS (certified at the Principal Investigator Prehistoric Archaeology or Historical Archaeology, or Principal Architectural Historian levels) may peer review FAEs and review FAEs for approval by the DEBC. The Caltrans PQS or consultant, who prepares the FAE signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the FAE for approval likewise signs, dates, and includes his/her PQS discipline, level and District. The DEBC signs and dates the FAE to signify approval.

Exhibit 2.10: Guidelines for Memoranda of Agreement

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Exhibit 2.10: Guidelines for Memoranda of Agreement

Introduction

The federal agency is responsible for writing the Memorandum of Agreement (MOA), which details the stipulations for mitigation that must be carried out to comply with 36 CFR 800. It typically follows that State Historic Preservation Officer's (SHPO) concurrence on a Finding of Adverse Effect. In such cases, additional documentation in the finding is required that describes and evaluates any proposed mitigation measures or alternatives that were considered to resolve or mitigate the undertaking's adverse effects on historic properties. This information should be presented in a section entitled Alternatives and Mitigation Measures Considered, inserted before the Conclusions. Where an MOA does not accompany the Finding of Adverse Effect, this information is not included in the finding, but is submitted with the MOA as supporting documentation.

The Advisory Council on Historic Preservation's (ACHP's) regulations provide for development of two-party MOAs between a federal agency and SHPO. Typically, ACHP will not be involved in the consultation, but must be sent a copy of the MOA for inclusion in its files for, in this case, the Federal Highway Administration's (FHWA) Section 106 program.

The FHWA assigned its National Environmental Policy Act (NEPA) responsibilities to Caltrans. As a result, Caltrans is considered "FHWA," for purposes of NEPA and also for FHWA's Section 106 responsibilities. The first amended Section 106 Programmatic Agreement¹ ([106 PA](#)) documents Caltrans's FHWA role in its introductory clauses.

MOAs have three basic parts, plus the signatures:

- 1) Title: This identifies the undertaking, the signatories, and that it is an MOA.
- 2) Preamble (Whereas Clauses): As explained in the *ACHP's Guide on Section 106 Agreement Documents*, these cite the statutory authority for the undertaking; introduce the signatories (typically Caltrans as assigned by FHWA and SHPO for

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.*

two-party MOAs²); provides relevant background facts about the project; briefly describe the consultation process; and identify the consulting parties; explain that Caltrans as assigned by FHWA has determined its federal undertaking will have an adverse effect on historic properties; has consulted with SHPO under Section 106, has considered alternatives; parties with which Caltrans as the federal agency has consulted with other parties, including the relevant Caltrans District; and that Caltrans and SHPO agree that that the stipulations that follow will be implemented, and that the MOA is in effect until it expires or is terminated.

The “Now Therefore” clause concludes this first section of the MOA. This is the clause in which Caltrans as assigned by FHWA and SHPO agree that that the stipulations that follow will be implemented, and that the MOA is in effect until it expires or is terminated.

- 3) Stipulations: These describe in detail all the commitments that Caltrans as assigned by FHWA ensures will be completed in order to avoid, minimize or mitigate adverse effects to historic properties. They also include standard administrative stipulations for monitoring and reporting, dispute resolutions, late discoveries, address amendments in case the project changes or is modified, the MOA’s expiration date and how to terminate the MOA.

The “Execution clause concludes the stipulations section. It comes immediately after the stipulations and explains that by the federal agency and SHPO (Caltrans CSO Chief, as assigned by FHWA, and SHPO) signing the MOA and Caltrans CSO forwarding it to the ACHP, Caltrans as the federal agency is demonstrating that has afforded the ACHP an opportunity to comment and has taken into account the effects of the undertaking on historic properties, all in accordance with 36 Code of Federal Regulations (CFR) Part 800, which implement Section 106.

- 4) Signatures: The Caltrans CSO Chief, as assigned by FHWA and SHPO are the signatories that have the power to amend and terminate the MOA; invited signatories, including the relevant Caltrans District and applicants (such as local governments) are those that have some kind of responsibility for implementing or monitoring historic property treatment stipulations and that Caltrans CSO has invited to sign; and concurring parties are those that have been consulted and are essentially endorsing the MOA but cannot amend or terminate the MOA, nor does a concurring party’s refusal to sign the MOA prevent it from being executed.

² ACHP becomes a signatory if it decides to participate, in which case it would be a three-party MOA.

Caltrans, as assigned by FHWA and SHPO are signatories to the MOA. Signatories have the sole authority to execute, amend, or terminate the agreement. Caltrans may invite additional parties to be signatories, usually parties who assume obligations under the agreement. Invited signatories have the same rights to terminate or amend the MOA as the other signatories. Caltrans *may* invite consulting parties to concur in the MOA; however, *consulting party(s) do not have the rights to amend or terminate it.* Their signature(s) simply shows that they are familiar with the terms of the MOA and do not object to the terms. Refusal by any consulting party invited to concur in the MOA does not invalidate it.

The ACHP has online guidance for the timing, consultation and content of MOAs in its [Guidance on Section 106 Agreement Documents](#).

The stipulations that follow suggest language that is almost always appropriate depending on property type. The “whereas clauses” are largely standardized while the stipulations vary greatly depending on the historic properties involved. Section 800.6(c)(4)-(9) of the ACHP’s regulations provide specific requirements for what should be included as stipulations in an MOA that govern the way it can be terminated or amended.

What follows is meant to illustrate the components that are typically found in MOAs; it is not an actual template. Contact the CSO Section 106 PA/Coordination Branch Chief in the Caltrans Division of Environmental Analysis, Cultural Studies Office in Sacramento for recent examples of executed MOAs.

Black text = required headings and text

Blue italic text = instructions and guidance to be considered

Red italic text = locations where specific text related to the project should to be inserted in an actual document

Purple text = sample text that can be used in document, as appropriate

The Title format illustrated below is the standard format for two-party MOAs.

MEMORANDUM OF AGREEMENT

**BETWEEN THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER
REGARDING THE (*UNDERTAKING*) PROJECT, (*LOCATION*) COUNTY,
CALIFORNIA**

Standard Preamble (Whereas Clauses)

These clauses are presented in the order they typically appear. While there may be additional clauses, these “whereas” clauses below need to be in the MOA.

WHEREAS, the Federal Highway Administration (FHWA) has assigned and the California Department of Transportation (Caltrans, including all subordinate divisions defined below) has assumed FHWA responsibility for environmental review, consultation, and coordination pursuant to 23 USC 327, which became effective on October 1, 2012 and applies to this undertaking; and

WHEREAS, pursuant to the January 2014 *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California* (Section 106 PA), Caltrans is deemed to be a federal agency for all highway-aid projects it has assumed, and in that capacity Caltrans has assigned the role of “agency official” to the Caltrans Division of Environmental Analysis (DEA) Chief for the purpose of compliance with 36 CFR 800 and is responsible for oversight of District environmental responsibilities. To provide for effective compliance, day-to-day responsibilities and coordination of the Section 106 process are further delegated to the DEA Cultural Studies Office (CSO) Chief; and

WHEREAS, the Caltrans has determined that the **Name of Undertaking**, which is described in Attachment A to this Memorandum of Agreement (MOA), on **Location information** County, California; will have an adverse effect on **[list historic property(ies)]**, a property determined to be eligible for inclusion in the National Register of Historic Places (National Register); and

WHEREAS, Caltrans has consulted with the California State Historic Preservation Officer (SHPO) pursuant to stipulation X.C and XI of the Section 106 PA, and where the Section 106 PA so directs, in accordance with 36 CFR Part 800, the regulation that implements Section 106 of the National Historic preservation Act of 1966 (16 U.S.C. 470f), as amended, regarding the Undertaking's effect on historic properties, and has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect finding pursuant to 36 CFR § 800.6(a)(1); and

Below is an alternate paragraph when Caltrans must invite the ACHP to participate—as opposed to notifying the ACHP—when any one of the four conditions exist as stipulated in the Section 106 PA Stipulation X.C.3.

WHEREAS, Caltrans has consulted with the California State Historic Preservation Officer (SHPO) pursuant to stipulation X.C and XI of the Section 106 PA, and where the Section 106 PA so directs, in accordance with 36 CFR Part 800, the regulation that implements Section 106 of the National Historic preservation Act of 1966 (16 U.S.C. 470f), as amended, regarding the Undertaking's effect on historic properties, and, pursuant to Stipulation X.C.3 of the Section 106 PA, Caltrans has notified and invited the Advisory Council on Historic Preservation (ACHP) to participate in this agreement pursuant to 36 CFR § 800.6(a)(1) and per its **date of letter** the ACHP has elected **to participate / not to participate**; and

WHEREAS, Caltrans, in consultation with the SHPO, has determined that the Undertaking's adverse effects cannot be avoided, and that implementation of the treatments set forth in Stipulation ___ of this MOA will satisfactorily take into account the Undertaking's adverse effects on the historic property; and

The following whereas clauses may or may not be needed, depending on the undertaking, and type and degree of consultation and whether other entities will be responsible for completing any of the stipulations.

WHEREAS, the United States Army Corps of Engineers (Corp), an invited signatory to the Section 106 PA, is a signatory to this MOA because there are historic **property[ies]** affected by this project within its jurisdiction; and

WHEREAS, the Caltrans has consulted with Caltrans District [*number of district*] and invited the District to sign this MOA as an invited signatory; and

WHEREAS, the Caltrans has consulted with [*list names of entities that will have responsibility for implementing one or more of the historic property treatment stipulations*] and invited [*list names*] to sign this MOA as an invited signatory(ies); and

WHEREAS, [*list Native American groups, list individuals by name as appropriate; any other consulting parties such as historical societies*] have participated in the consultation; and

WHEREAS, Caltrans has invited [*list Native American groups, list individuals by name as appropriate; any other consulting parties such as historical societies*] to sign this MOA as concurring parties; and

Standard Now Therefore Clause

Use this standard language for all federal undertakings that are governed by the Section 106 PA.

NOW, THEREFORE, the Caltrans and the SHPO agree that if the Undertaking proceeds, the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all of its parts until this MOA expires or is terminated.

STIPULATIONS

Caltrans shall ensure that the following stipulations are carried out:

Sample Historic Property Treatment Stipulations

Insert historic property treatment stipulations here. The Area of Potential Effects is always the first stipulation, followed by other “Treatment of Historic Property” stipulations. The type and number of stipulations will depend on the type of historic property that is adversely effect, the scope of the project, historic properties can be avoided through protective measures, and whether there are properties of concern to Native Americans.

The stipulations that follow are sample stipulations FHWA and Caltrans have used on other federal undertakings in California. Not every one of them needs to be

included in an MOA. They are provided only as samples because they illustrate the variety of mitigation measures that are available.

Contact the CSO Section 106 PA/Coordination Branch Chief for recent examples of executed MOAs.

I. AREA OF POTENTIAL EFFECTS

This stipulation may include a statement about the APE or may refer to supporting documentation.

Sample Area of Potential Effects Stipulations

Sample 1:

The Area of Potential Effects (APE) for the Undertaking is depicted in Attachment **xx** of this MOA. Attachment **xx** set forth hereunder may be amended through consultation among the MOA parties without amending the MOA proper.

Sample 1:

A. The Undertaking's area of potential effects (APE) is depicted in Figure **add number** of the attached (date) Data Recovery Plan for Archaeological Site CA-**xxx-xxxx**, Name of federal undertaking Project, County name County (Attachment B: Data Recovery Plan). The APE includes the maximum existing or proposed right-of-way for all alternatives under consideration, easements (temporary and permanent), and encompasses the areas of the "project limits" and the "archaeological site limits" and adjacent staging area. The area of direct impact (ADI), also depicted in Figure 3 of the Data Recovery Plan, encompasses the "defined work area boundary." The APE and ADI are depicted in Attachment **add number** : Exhibit **add number** of this document.

B. If modifications to the Undertaking, subsequent to the execution of this MOA, necessitate the revision of the APE, District **add number** will consult with Caltrans and the SHPO to facilitate mutual agreement on the subject revisions. If Caltrans, District **add number**, and the SHPO cannot reach such agreement, then the parties to this MOA shall resolve the dispute in accordance with Stipulation **add number** below. If Caltrans, District ____, and the SHPO reach mutual agreement on the proposed revisions, then District **add number** will submit a final map of the revisions, consistent with the requirements of Stipulation VIII.A and Attachment 3 of the Section 106 PA no later than **add number** days following such agreement

II. TREATMENT OF THE HISTORIC PROPERTY

Treatment of historic properties should take into consideration advice in [Section 106 PA Attachment 6](#). For archaeological sites this section may reference a Treatment Plan, Environmentally Sensitive Area Plan or Data Recovery Plan that contains details of proposed activities and that has been reviewed by SHPO.

Sample Archaeological Site Stipulations

1. Caltrans shall ensure that the adverse effects of the Undertaking on archaeological site CA-~~xxx-xxx~~ are resolved by implementing the ***date and name of*** Data Recovery Plan (DRP) that is Attachment__ of this MOA. Data recovery is prescribed for archaeological deposits contributing to the National Register eligibility of this historic property within the Undertaking's construction area of direct impact (ADI) as shown in Figure ***add number*** of the DRP.
2. In order to eliminate or minimize the potential to affect contributing deposits of CA-~~xxx-xxx~~ outside of the ADI, Caltrans will protect those contributing deposits by identifying them as Environmentally Sensitive Areas (ESAs), which shall be described in information included in the final construction plans of the Undertaking, and by enclosing in the temporary fencing the remainder of the site areas located outside the ADI. Caltrans shall further ensure that: 1) construction activities within ***add number*** feet of the properties shall be monitored by an archaeologist and Native American monitor; and 2) the integrity of the fence line as installed will be monitored by the archaeologist throughout the duration of the construction activities in the vicinity of the sites. An ESA Action Plan, prepared in accordance with Attachment 5 of the Section 106PA, is appended to this MOA as Attachment ***add number***.
3. Caltrans shall include provisions to ensure against incidental damage to those portions of CA-~~xxx-xxx~~ outside the ADI; such provisions will specify the establishment of an Environmentally Sensitive Area (ESA) around these areas. The ESA shall conform to the stipulations and attachment 5 of the Section 106 PA. The ESA Action Plan is part of the DRP.
4. Any MOA party may propose amendments to the DRP. Such amendment will not require amendment of this MOA. Disputes regarding amendments proposed hereunder shall be addressed through further consultation among the MOA parties, and a reasonable time frame for such consultation shall be established by Caltrans. If the dispute is resolved within this time frame, the MOA parties shall proceed in accordance with the terms of that resolution. If

the dispute is not resolved within this time frame, Caltrans shall render a final decision regarding the dispute and the MOA parties shall proceed in accordance with the terms of that decision.

5. Caltrans will not authorize the execution of any Undertaking activity that may affect (36 CFR§800.16(i)) historic properties in the Undertaking's APE until the requirements set forth in paragraph(s) *add number* and *add number* of this stipulation have been met.
6. Caltrans shall ensure that, to the extent permitted under §5097.98 and§5097.991 of the California Public Resources Code, the materials and records resulting from the activities prescribed by this MOA are curated in accordance with 36 CFR §79. The *name(s) of tribe(s)* have indicated their intention to rebury all recovered materials, while the *name(s) of tribe(s)* wish(es) to curate recovered materials at their tribal museum for potential display. Caltrans will continue to consult with *name(s) of tribe(s)* to reach consensus on the final disposition and or curation of artifacts recovered during data recovery. Until such time as an agreement can be reached between the parties, Caltrans shall curate all recovered artifacts at *name(s) of facility(ies)*.

Sample Built Environment Stipulations

1. a. *Use this stipulation only if the historic property is a National Historic Landmark or is nationally significant or when SHPO decides that historic properties with state or local significance should go to the Library of Congress; see Exhibit 7.6: Heritage Documentation for HABS/ HAER / HALS, Section 106 Documentation that NPS will review.*

Prior to the start of any work that could adversely affect any characteristics that qualify the *name of property* as a historic property, Caltrans shall consult with the National Park Service Pacific West Region office as to the required level [*choose as applicable*] Historic American Building Survey (HABS), Historic American Engineering Record (HAER), Historic American Landscape Survey (HALS) of documentation, shall ensure such documentation consistent with National Park Service standards is completed. The *name of entity responsible for doing the work* shall prepare draft and final reports to be reviewed by Caltrans and approved by NPS. NPS approval of the completed documentation is required prior to any alteration or demolition of the *name of property*.

- b. Upon completion and after NPS approval, the District will distribute [*choose as applicable*] HABS/HAER/HALS documentation to the NPS for

- transmittal to the Library of Congress; the Office of Historic Preservation; the California Room of the California State Library; **names of appropriate repositories**; Caltrans District **add number**; and Caltrans Headquarters Library and History Center.
2. a. *Use this stipulation when for all other historic properties as outlined in Exhibit 7.6: Heritage Documentation for HABS/ HAER / HALS, Section 106 Documentation that NPS does not review.*
Prior to the start of any work that could adversely affect any characteristics that qualify the **name of property** as a historic property, Caltrans shall consult with the SHPO as to the required level [*choose as applicable*] Historic American Building Survey (HABS), Historic American Engineering Record (HAER), Historic American Landscape Survey (HALS) of documentation, shall ensure such documentation consistent with National Park Service standards is completed. The **name of entity responsible for doing the work** shall prepare draft and final reports to be reviewed by Caltrans and SHPO. Caltrans and SHPO approval of the completed documentation is required prior to any alteration or demolition of the **name of property**.
- b. Upon completion and after SHPO approval, the District will distribute the [*choose as applicable*] HABS/HAER/HALS documentation the Office of Historic Preservation; the California Room of the California State Library; **names of appropriate repositories**; Caltrans District **add number**; and Caltrans Headquarters Library and History Center.
3. The **name of entity responsible for doing the work** shall work with the **name of entity** to place the historical information from the HABS/HAER/HALS report on a **name of entity** website with a link to a public website available to the public for a minimum period of **add number** years. The information link will also be made available to the Caltrans Transportation Library and History Center at Caltrans Headquarters in Sacramento for inclusion on its website. The **name of entity responsible for doing the work** shall prepare draft and final website text and design to be reviewed and approved by Caltrans.
4. The **name of entity responsible for doing the work** shall produce a documentary (motion picture or video) that addresses the history of the **name(s) of the affected historic properties/and or their historical context, and their importance** and use within the broader contextual history of **add relevant information**. The motion picture or video shall be of broadcast quality, between **add number** - and **add number** minute duration, and shall be made available to

- local broadcast stations, public access channels in the local cable systems, and requesting schools/libraries; one copy shall be submitted to the Caltrans Transportation Library and History Center at Caltrans Headquarters in Sacramento. The ***name of entity responsible for doing the work*** submit preliminary and final copies to Caltrans for review and approval prior to making the documentary available to recipients.
5. The ***name of entity responsible for doing the work*** shall produce and publish a booklet on the ***name(s) of the affected historic properties/and or their historical context, and their importance*** and use within the broader contextual history of ***add relevant information***. The booklet shall be ***describe format*** and shall include high quality black and white images of the ***name(s) of the affected historic properties***, historic photographs or drawings, as appropriate and text describing each of the ***name(s) of the affected historic properties***, year built, builder, resource type, significant character-defining features and its historic significance. The ***name of entity responsible for doing the work*** shall post an electronic version of the booklet on a The ***name of entity responsible for doing the work*** website and produce paper copies for distribution to local libraries, institutions and historical societies. One copy shall be submitted to the Caltrans Transportation Library and History Center in Sacramento. The ***name of entity responsible for doing the work*** shall maintain the camera-ready master booklet and produce additional copies if there is demand. The ***name of entity responsible for doing the work*** shall submit preliminary and final copies to Caltrans for review and approval prior to making the booklet available to recipients.
6. The ***name of entity responsible for doing the work*** shall install two new freestanding informative permanent plaques or signage at public locations that provide a brief history of the ***name(s) of the affected historic properties and their historic importance***, and the reasons it/they was/were replaced or demolished. The ***name of entity responsible for doing the work*** shall submit preliminary and final copies of the text of the plaques or signage and the design thereof to Caltrans and SHPO for review and approval prior to installation.
7. The ***name of entity responsible for doing the work*** shall offer artifacts removed from the ***name(s) of the affected historic properties*** during demolition to local museums, or other suitable facilities to be determined by Caltrans, ***name of entity responsible for doing the work***. The accepting

institutions shall arrange their own transportation to deliver the artifacts to designated locations.

8. Impacts to the Built Environment Related to Selection of either Alternative, and assuming the project alternative ultimately selected would have adverse effects on the following historic property(ies), these measures apply only if in such cases an adverse effect would occur to the property due to implementation of the Undertaking:

a. Name of Historic Property or District

- i. Prior to any work that would adversely affect any characteristics that qualify the **Name of Historic Property or District** as a historic property, Caltrans shall ensure that the recordation measures set forth in section **add number** and **add number** of this stipulation are completed.
- ii. The **name of entity responsible for doing the work** shall take large-format (4" x 5" or larger negative size) black and white photographs showing elevations of each of the individual **Name of Historic Property** contributors located within the APE. Photographs shall be processed for archival permanence in accordance with the Historic American Building Survey (HABS) photographic specifications. Views of the individual contributors shall include details of unique or character-defining architectural features and overviews of the property's setting and vegetation. A minimum of **add number** large format photographs that address various neighborhood street views in the **Name of Historic District**, both within and outside the APE, separate from photographs of the individual contributors, also shall be taken. A written report of between **add number** and **add number** pages shall be prepared, which upon its completion and approval shall be distributed, at a minimum, to the Regional Information Center at **names of host facility**, the **names of relevant and potential repositories**, Caltrans District **add number**, California Office of Historic Preservation and Caltrans Headquarters Transportation Library and History Center.
- iii. For those contributors to the **Name of Historic District** that will be directly impacted by the project, including relocation or destruction, in addition to the requirements established in **add number** of this stipulation, the **name of entity responsible for doing the work** shall take large-format photographs of interior detailing, if possessing integrity and dating from the period of historic significance, as

- determined by the Caltrans principal architectural historian or professionally qualified staff designee. Caltrans will consult with SHPO regarding recordation level and specifications for completing additional documentation.
- iv. The ***name of entity responsible for doing the work***, in concert with Caltrans CSO and District __ will prepare a marketing plan to offer to the public the availability and relocation of each of the property contributors in the ***name of Historic District*** which would be directly impacted and fully acquired for right-of-way purposes by the Undertaking, if avoidance is not feasible. Notices of availability will be made through local newspapers and letters to be sent to local historical museums and heritage organizations. Such buildings would be available for a minimum of ***add number*** calendar days and building relocation costs would only be reimbursed for up to the estimated cost of demolition. The current owner will have the right of first refusal.
- v. If any buildings considered historic contributors will not be relocated as specified in ***add number*** of this stipulation, as appropriate, decorative, interpretive or character-defining building elements will be offered by the ***name of entity responsible for doing the work*** to local historical societies/museums, then offered to architectural recycling companies before demolishing the building completely.
- vi. The ***name of entity responsible for doing the work***, in consultation with Caltrans CSO, District __, and SHPO, will develop an interpretive project that results in the documentation of the district's history and meaning to the general public by means of a pamphlet (not to exceed ***add number*** pages) on the immediate area's architectural heritage. This pamphlet will highlight the ***name of Historic District***, in the context of the social, economic, and cultural trends of ***period of significance of the Historic District***, with an emphasis on the ***styles or other important values*** reflected in the contributors within the district. ***Provide number of copies*** of the pamphlet will be published. These professionally researched, written and printed materials will be offered at no cost through the local museums and heritage organizations.
- vii. The ***name of entity responsible for doing the work***, in consultation with Caltrans CSO, District ***add number***, and SHPO, shall contribute content to a ***name of entity responsible for doing the work***-maintained website that will provide a user-friendly guide on the various major ***styles or other values*** represented within the

name Historic District, (with a special focus on the **styles or other values** of the contributors) and may include display historic photographs, maps, and other readily accessible background materials. The **name of entity responsible for doing the work** shall create the website within **add number** years of execution of this MOA and maintain the website through construction of the project.

- viii. Incorporation of hardscape features (including soundwalls) and landscape and architectural treatments that are compatible with the general character of the **name of Historic District**, including color, texture, plants and vine treatment, shall be considered by the **name of entity responsible for doing the work**, as feasible. If such context sensitive features are not feasible, documentation to justify the decision shall be submitted to Caltrans CSO, District **add number** and SHPO.
- ix. The **name of entity responsible for doing the work**, in consultation with CSO, District **add number**, and SHPO, shall restore any contributor parcels for which a temporary construction easement is required to its pre-construction conditions, following the *Secretary of the Interior's Standards for the Treatment for Historic Properties with Guidelines for Rehabilitation*.

Standard Stipulation for Treatment of Human Remains of Native American Origin

The following stipulation is standard in MOAs and is typically the third stipulation.

III. TREATMENT OF HUMAN REMAINS OF NATIVE AMERICAN ORIGIN

As legally mandated, human remains and related items discovered during the implementation of the terms of this Agreement and the Undertaking will be treated in accordance with the requirements of Health and Safety Code Section 7050.5(b). If pursuant to of Health and Safety Code Section 7050.5(c) the coroner determines that the human remains are or may be those of a Native American, then the discovery shall be treated in accordance with the provisions of Public Resources Code Sections 5097.98 (a)(d).

When the undertaking occurs on Caltrans property (e.g., in Caltrans right of way, or other property that Caltrans owns, add the sentence below to this stipulation.

Caltrans, as the landowner, shall ensure, to the extent possible, that the views of the Most Likely Descendent(s), as determined by the California Native American

Heritage Commission, is taken into consideration when decisions are made about the disposition of Native American human remains and associated objects.

Standard Stipulation for Discoveries and Unanticipated Effects

The following stipulation is standard in MOAs.

___ DISCOVERIES AND UNANTICIPATED EFFECTS

If Caltrans determines after construction of the Undertaking has commenced, that either the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, Caltrans will address the discovery or unanticipated effect in accordance with 36 CFR §800.13(b)(3). Caltrans at its discretion may hereunder and pursuant to 36 CFR §800.13(c) assume any discovered property to be eligible for inclusion in the National Register. *(Or cite relevant document).*

Standard Administrative Stipulations

The following stipulations are standard in MOAs and typically follow the historic property treatment stipulations.

___ ADMINISTRATIVE PROVISIONS

A. STANDARDS

1. **Definitions.** The definitions provided at 36 CFR § 800.16 are applicable throughout this MOA.
2. **Professional Qualifications.** Caltrans will ensure that only individuals meeting the *Secretary of the Interior's Professional Qualification Standards* (48 FR 44738-39) (**PQS**) in the relevant field of study carry out or review appropriateness and quality of the actions and products required by Stipulations **[Add relevant stipulations]** in this MOA. However, nothing in this stipulation may be interpreted to preclude Caltrans or any agent or contractor thereof from using the properly supervised services of persons who do not meet the PQS.
3. **Documentation Standards.** Written documentation of activities prescribed by stipulations **[Add relevant stipulations]** of this MOA shall conform to *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740) as well as to applicable standards and guidelines established by the SHPO. **[Add others as applicable.]**

4. **Curation and Curation Standards.** Caltrans shall ensure that, to the extent permitted under § 5097.98 and § 5097.991 of the California Public Resources Code, the materials and records resulting from the activities prescribed by this MOA are curated in accordance with 36 CFR §79.

B. CONFIDENTIALITY

The MOA parties acknowledge that the historic properties covered by this MOA are subject to the provisions of § 304 of the NHPA and § 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this MOA are consistent with said sections.

C. RESOLVING OBJECTIONS

1. Should any party to this MOA object at any time in writing to the manner in which the terms of this MOA are implemented, to any action carried out or proposed with respect to implementation of the MOA (other than the Undertaking itself), or to any documentation prepared in accordance with and subject to the terms of this MOA, Caltrans shall immediately notify the other MOA parties of the objection, request their comments on the objection within 15 days following receipt of Caltrans' notification, and proceed to consult with the objecting party for no more than 30 days to resolve the objection. Caltrans will honor the request of the other parties to participate in the consultation and will take any comments provided by those parties into account.
2. If the objection is resolved during the 30-day consultation period, Caltrans may proceed with the disputed action in accordance with the terms of such resolution.
3. If at the end of the 30-day consultation period, Caltrans determines that the objection cannot be resolved through such consultation, then Caltrans shall forward all documentation relevant to the objection to the ACHP, including Caltrans' proposed response to the objection, with the expectation that the ACHP will, within thirty (30) days after receipt of such documentation:
 - a. Advise Caltrans that the ACHP concurs in Caltrans' proposed response to the objection, whereupon Caltrans will respond to the objection accordingly. The objection shall thereby be resolved; or

- b. Provide Caltrans with recommendations, which Caltrans will take into account in reaching a final decision regarding its response to the objection. The objection shall thereby be resolved; or
 - c. Notify Caltrans that the objection will be referred for comment pursuant to 36 CFR § 800.7(c) and proceed to refer the objection and comment. Caltrans shall take the resulting comments into account in accordance with 36 CFR § 800.7(c)(4) and Section 110(1) of the NHPA. The objection shall thereby be resolved.
4. Should the ACHP not exercise one of the above options within 30 days after receipt of all pertinent documentation, Caltrans may proceed to implement its proposed response. The objection shall thereby be resolved.
 5. Caltrans shall take into account any of the ACHP's recommendations or comments provided in accordance with this stipulation with reference only to the subject of the objection. Caltrans' responsibility to carry out all actions under this MOA that are not the subjects of the objection shall remain unchanged.
 6. At any time during implementation of the measures stipulated in this MOA, should a member of the public raise an objection in writing pertaining to such implementation to any signatory party to this MOA, that signatory party shall immediately notify Caltrans. Caltrans shall immediately notify the other signatory parties in writing of the objection. Any signatory party may choose to comment in writing on the objection to Caltrans. Caltrans shall establish a reasonable time frame for this comment period. Caltrans shall consider the objection, and in reaching its decision, Caltrans will take all comments from the other signatory parties into account. Within 15 days following closure of the comment period, Caltrans will render a decision regarding the objection and respond to the objecting party. Caltrans will promptly notify the other signatory parties of its decision in writing, including a copy of the response to the objecting party. Caltrans' decision regarding resolution of the objection will be final. Following issuance of its final decision, Caltrans may authorize the action subject to dispute hereunder to proceed in accordance with the terms of that decision.
 7. Caltrans shall provide all parties to this MOA, and the ACHP, if the ACHP has commented, and any parties that have objected pursuant to section__ of this stipulation, with a copy of its final written decision regarding any objection addressed pursuant to this stipulation.

8. Caltrans may authorize any action subject to objection under this stipulation to proceed after the objection has been resolved in accordance with the terms of this stipulation.

D. AMENDMENTS

1. Any signatory party to this MOA may propose that this MOA be amended, whereupon all signatory parties shall consult for no more than 30 days to consider such amendment. The amendment will be effective on the date a copy signed by all of the original signatories is filed with the ACHP. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation *[Add relevant stipulation]*, below.
2. Attachments to this MOA may be amended through consultation as prescribed in Stipulation *add number* or section *add number* of Stipulation *add number*, as appropriate, without amending the MOA proper.

E. TERMINATION

1. If this MOA is not amended as provided for in section D. of this stipulation, or if either signatory proposes termination of this MOA for other reasons, the signatory party proposing termination shall, in writing, notify the other MOA parties, explain the reasons for proposing termination, and consult with the other parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if Caltrans proposes termination because the Undertaking no longer meets the definition set forth in 36 CFR § 800.16(y).
2. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall proceed in accordance with the terms of that agreement.
3. Should such consultation fail, the signatory party proposing termination may terminate this MOA by promptly notifying the other MOA parties in writing. Termination hereunder shall render this MOA without further force or effect.
4. If this MOA is terminated hereunder, and if Caltrans determines that the Undertaking will nonetheless proceed, then Caltrans shall comply with the requirements of 36 CFR 800.3-800.6, or request the comments of the ACHP pursuant to 36 CFR Part 800.

F. DURATION OF THE MOA

1. Unless terminated pursuant to section E. of this stipulation, or unless it is superseded by an amended MOA, this MOA will be in effect following execution by the signatory parties until Caltrans, in consultation with the other signatory parties, determines that all of its stipulations have been satisfactorily fulfilled. This MOA will terminate and have no further force or effect on the day that Caltrans notifies the other MOA signatories in writing of its determination that all stipulations of this MOA have been satisfactorily fulfilled.
2. The terms of this MOA shall be satisfactorily fulfilled within ten (10) years following the date of execution by the signatory parties. If Caltrans determines that this requirement cannot be met, the MOA parties will consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment of the MOA, or termination. In the event of termination, Caltrans will comply with section ___ of this Stipulation if it determines that the Undertaking will proceed notwithstanding termination of this MOA.
3. If the Undertaking has not been implemented within **spell out number (numeral)** years following execution of this MOA, this MOA shall automatically terminate and have no further force or effect. In such event, Caltrans shall notify the other signatory parties in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR Part 800.

G. REPORTING REQUIREMENTS AND RELATED REVIEWS

The reporting requirements and related reviews stipulation can vary in its location. Often this stipulation is related to, and appears with, historic property treatment stipulations e.g., mitigation documentation report requirements, reviews of plans and stages of construction for rehabilitation projects, or other reports generated by the mitigation stipulations. However, when this stipulation is associated with project programmatic agreements (see [Project Programmatic Agreement](#) below), this would be an administrative stipulation that appears in the administrative stipulations.

Each **[insert a specific time period]** following the execution of this MOA until it expires or is terminated, Caltrans shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in Caltrans's efforts to carry out the terms of this MOA.

H. EFFECTIVE DATE

This MOA will take effect on the date that it has been executed by Caltrans and the SHPO.

Putting the MOA into effect (MOA Execution)

The following paragraph is the standard language for a two-party MOA between Caltrans as the federal agency and SHPO.

EXECUTION of this MOA by Caltrans and the SHPO, its filing with the ACHP in accordance with 36 CFR §800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36CFR§800.6(c), that this MOA is an agreement with the ACHP for purposes of Section 110(l) of the NHPA, and shall further evidence that Caltrans has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties, and that Caltrans has taken into account the effects of the Undertaking on historic properties.

MOA Signatures

The signatory parties always follow the MOA execution paragraph and are always in the following order: First, the Caltrans Division of Environmental Analysis Chief, who has been delegated to sign MOAs, as assigned by FHWA, followed by the SHPO's signature on the same page. If the ACHP decides to participate in the MOA (making it a "three-party" MOA), ACHP signs last under the signatory parties.

Then, the District Director signs as an invited signatory, as well as any other entity that Caltrans CSO has approved as an invited signatory, such as a local government. Finally, entities that are concurring parties sign; their signatures serve to endorse the MOA, but they have no responsibilities under the agreement.

SIGNATORY PARTIES:³

California Department of Transportation

By _____ Date _____

Name, Chief
Division of Environmental Analysis

California State Historic Preservation Officer

By _____ Date _____

Name
State Historic Preservation Officer

When ACHP participates in the MOA, it becomes a three-party MOA and the following signature block is the last “signatory” block on this page.

Advisory Council on Historic Preservation

By _____ Date _____

Name, Executive Director
Advisory Council on Historic Preservation

Insert a page break after these signatures.

Invited signatories are on a separate page from the signatories.

INVITED SIGNATORY:⁴

California Department of Transportation

By _____ Date _____

Name
District Director
District __, **City**

³ A signatory has the sole authority to execute, amend, or terminate the agreement. In California, Caltrans, as assigned by FHWA, is the federal agency and the SHPO or THPO are signatories. The ACHP is a signatory as well when it has participated in consultation. and ACHP’s signature is almost always required for the MOA to take effect, per ACHP’s online [Guidance on Section 106 Agreement Documents](#).

⁴ As the federal agency official per the Section 106 PA, Caltrans CSO may invite additional parties to sign the MOA, such as an Indian tribe or that attaches religious and cultural significance to historic properties affected by the undertaking (off tribal lands), or any party that **assumes a responsibility** under the MOA. An invited signatory, upon signing the MOA has the authority to amend and terminate the agreement. However, if an invited signatory refuses to sign the MOA, it does not prevent the MOA from taking effect and the MOA “cannot impose a duty or responsibility on a party that has not signed” the MOA, per ACHP’s online [Guidance on Section 106 Agreement Documents](#).

Follow the above format for any other invited signatories.

Insert a page break after these signatures.

Concurring party signatures are on a separate page from the signatories and invited signatories.

CONCURRING PARTY(IES):⁵

Name of Organization or Local Entity

By _____ Date _____
Name
Title

Follow the above format for any other invited signatories.

Insert a page break after these signatures.

Include any attachments, such as APE maps, project descriptions, ESA or SOIS plans, Data Recovery Plans, etc. and make sure each attachment is mentioned in the MOA itself.

Caltrans must submit a copy of the executed MOA, along with its supporting documentation specified in Section 800.11(f), to ACHP prior to approving the undertaking in order to meet the requirements of Section 106. 36 CFR §800.6(b)(1)(iv).

⁵ A concurring party is a consulting party that Caltrans, as assigned by FHWA and at Caltrans' sole discretion, has invited to concur in the MOA. But, concurring parties do not have the authority to amend or terminate the MOA, their signatures are not required to execute the MOA, and the MOA may not assign any responsibilities to those who refuse to sign. A concurring party's signature essentially signifies that the party endorses the MOA, per ACHP's online [Guidance on Section 106 Agreement Documents](#). [

MOA Checklist for Content

What follows below are points to consider when drafting an MOA and is adapted for Caltrans use from the ACHP's *Section 106 Agreement Checklist: Content*.

Title

- Is this a Memorandum of Agreement or Programmatic Agreement?
- Are all the signatories named in the title? These include: Caltrans as assigned by FHWA, SHPO/THPO, and ACHP if participating.
- Is the undertaking(s) named in the title?

Preamble – Whereas Clauses

- Is the entire undertaking and the nature of federal involvement described?
- Does a clause note the agreement was developed pursuant to Section 106 of the National Historic Preservation Act? Also include pursuant to the January 2014 First Amended Section 106 PA.
- Is Caltrans, as assigned by FHWA named as the responsible federal agency?
- If there is a lead federal agency, has it been named? If so, also identify the role(s) of other involved federal agencies [\[36 CFR §800.2\(a\)\(1\)\]](#)
- Is an applicant for federal-aid highway funds involved? If so, are the applicant's role and responsibilities described? This could be the Caltrans District or a local government for local assistance.
- If other federal funds, permits, or licenses may be used or required in the future for the undertaking, is an "other federal involvement" stipulation included? And the federal agency invited to be a signatory?
- Is the appropriate SHPO/THPO(s) named?
- Are all other consulting parties listed, including any Indian tribes, and representatives of local governments? See [36 CFR §800.2\(c\)](#).
- In a Programmatic Agreement, is the reason why a programmatic approach is needed described? See [36 CFR §800.14\(b\)\(1\)](#).
- Are historic properties affected by the undertaking listed? If numerous, consider summarizing and referencing an appendix.
- Does a clause acknowledge historic properties would or may be adversely affected? If historic properties would be adversely affected by the undertaking, briefly describe how.

- Is a clause stating that the ACHP has been notified of the finding of adverse effect included?
- If the ACHP was invited to participate and is participating in the consultation, is this stated?
- Is a reference included to the agency's public involvement efforts?
- Is the clause, "Now, therefore, Caltrans, as assigned by FHWA [for Caltrans as the federal agency] and SHPO/THPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties" included?

Stipulations

- Are the stipulations preceded by a clear statement that the federal agency shall ensure that these terms are carried out? Due to the Caltrans NEPA assignment and per the Section 106 PA, Caltrans is the federal agency that should be mentioned in this statement.
- Has the Area of Potential Effects for the undertaking(s) been identified?
- Are procedures for responding to the unanticipated discovery of historic properties or inadvertent adverse effects to identified historic properties included? Where appropriate; see [36 CFR §800.6\(c\)\(6\)](#). See also [36 CFR §800.13](#).
- Are procedures for responding to emergency situations included? See [36 CFR §800.12](#).
- Is the need for confidentiality of sensitive information identified where appropriate? See [36 CFR §800.11\(c\)](#).
- Has the use of qualified professionals been stipulated where appropriate? See the [Section 106 PA Stipulation III](#) and [Attachment 1](#), as well as the Secretary of the Interior's professional qualifications standards, and 36 CFR §800.2(a)(1).
- If archaeological data recovery is stipulated, is a data recovery plan attached or referenced in the agreement? See the [Section 106 PA Attachment 6](#) and SERv2 [Chapter 5 Section 5.8.1](#), as well as [Exhibit 5.6](#). See the ACHP's archaeological guidance at www.achp.gov/archguide.
- Are procedures for public involvement included for any ongoing reviews carried out according to the agreement's terms? See [36 CFR §800.2\(d\)](#) and [800.6\(a\)\(4\)](#).
- Are procedures for monitoring and reporting on agreement implementation included as appropriate to the project? Where appropriate; see [36 CFR §800.6\(c\)\(4\)](#).

- If other federal funds, permits, or licenses may be used or required in the future for the undertaking, is an “other federal involvement” stipulation included? Has Caltrans invited that federal agency to be a signatory?
- Is a dispute resolution procedure included?
- Are provisions for the amendment and termination of the agreement included? See [36 CFR §§800.6\(c\)\(7\)](#) and [800.6\(c\)\(8\)](#).
- Is the agreement’s duration specified? Required by [36 CFR §800.6\(c\)\(5\)](#).
- Is compliance with other federal laws, such as the Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act, and state and/or tribal laws, including state burial laws, acknowledged where appropriate? While these other laws can be noted in an MOA/PA, Section 106 agreements are solely for documenting an agency’s compliance with Section 106 of the NHPA. As such, Section 106 agreement documents should not provide for an agency’s compliance with other statutes.
- Do the stipulations conclude with an affirmation statement consistent with the template MOA?

Signatures

- Are the signature blocks for signatories, invited signatories, and concurring parties clearly identified?
- Have all parties that are assigned responsibilities in the agreement been asked to be invited signatories?
- Does each signature line include a printed name, title, agency/organization, and date?

MOA Checklist for Reviewers

What follows below are points to consider when reviewing the final drafts of MOA and is adapted for Caltrans use from the ACHP's *Section 106 Agreement Checklist: Reviewer's*.

Editing and Mechanics

- Are all acronyms and abbreviations identified and used consistently?
- Are all of the provisions agreed upon during consultation included? Make sure stipulations are grouped logically.
- Do the stipulations clearly identify who is responsible for carrying out each measure?
- Do all tasks have clear timeframes for initiation and completion?
- Have all terms and references been used correctly and consistent with regulatory definitions? Avoid terms like “project area” or “cultural resource” or “historical resource” that are not used in 36 CFR Part 800.
- Are all stipulations written in the active voice? This is particularly important so that the parties with responsibilities clearly understand what is being asked of them.
- Is the process for post-review decision making described in a complete, logical, and organized way? Who makes the decisions? Who is consulted? When do decisions need to be made? What information is needed?
- Are all attachments and appendices cited in the MOA included? Confine lengthy lists of historic properties, detailed procedural instructions, maps, address lists, etc. to appendices.
- Are spelling, grammar, page numbering, section numbering, etc. accurate and consistent?
- Can a cold reader understand the MOA and what it requires? A cold reader should not have to refer to consultation meeting minutes or other background documents to understand the MOA's provisions.
- Are the signature blocks for signatories, invited signatories, and concurring parties clearly separated or designated on the signature page(s)?

Preparation

- Are all parties to whom the MOA has assigned responsibilities included as signatories or invited signatories?

- Does the duration of the MOA allow adequate time for project implementation and the completion of all stipulations?
- Does Caltrans (as the federal agency) leadership support commitments made in the MOA?
- If the MOA is executed in counterparts,⁶ does each signature page include the title of the MOA? Caltrans, as the federal agency, should compile the individually executed counterparts into a single document before forwarding the MOA to the ACHP for signature or filing.
- If the ACHP is participating in the consultation, have all the other signatories, and invited signatories with assigned responsibilities, signed the MOA before Caltrans forwards the document to the ACHP for signature?
- Once fully executed, has the MOA been filed with the ACHP?
- Once fully executed, has a copy of the MOA been provided to all consulting parties?
- Has the executed MOA been made available to the public?

MOA Amendments

There are a few reasons for which it is appropriate to amend MOAs: the project scope or size might change such that there are additional historic properties within an expanded APE, or different approaches are needed to avoid, minimize or mitigate adverse effects to historic properties in the APE; Caltrans or other signatories to the MOA might not be able to carry out their stipulations within the agreed upon timeframe; or Caltrans, as the federal agency, may change the scope or features of the undertaking.

When the MOA needs to be changed, Caltrans prepares an amended MOA following the same format as for the original MOA. Use the same project title block and add “Amendment to” before that title.

Amended MOA Preamble’s Whereas Clauses:

- Identify the original project title and when it was originally executed,
- Identify how the amended MOA will be referenced, for example the “Original Project Title, as Amended Month, Day, Year,”

⁶ ACHP uses “counterparts” to mean “that each signatory, invited signatory, and concurring party may sign and date a separate signature page concurrently or sequentially that are then attached together to make up a single agreement with all signatures,” per ACHP’s online *Guidance on Section 106 Agreement Documents*.

- Include concise explanation of the reasons for the amendment
- State that Caltrans, as assigned by FHWA and described in Stipulation VI *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 National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California*, executed January 2014 (Section 106 PA) will send a copy of this executed amendment to the ACHP (if ACHP is not a signatory).
- Include a clause that states, “NOW, THEREFORE in accordance with Stipulation ___ [*insert the number of the amendment stipulation in the original MOA*] of the MOA, Caltrans and the SHPO [*and any invited signatories*] agree to amend the MOA as follows.”
- Include the appropriate Stipulations that address the changes needed
 1. Amend Stipulation ___ [*insert the number of the stipulation to be amended*] so it reads as follows: *Insert the amended text of the stipulation.*

If the amendment involves adding a new stipulation to the Agreement, add the new stipulation.
 2. Stipulation ___ [*insert the number of the new stipulation*]: *Insert the amended text of the new stipulation.*
- Insert signature and date lines for all Signatories. If the amendments add duties to a party that did not sign the original MOA, add a signature line for that party.

Amended MOAs Amendments are executed in the same manner as the original agreement in that the same signatories and invited signatories sign, and Caltrans files a fully-executed copy with the ACHP

Project Programmatic Agreements

A project Programmatic Agreement (PA) may be preferable to using an MOA for multiple or complex projects when:

1. It is not possible to fully determine in advance what effects there might be to historic properties or There are occasions where completing the Section 106 process prior to making a final decision on a particular undertaking is not practical. Typically, a project PA is used when Caltrans cannot fully determine how a project may affect historic properties in the APE or cannot determine the location, significance or character of the historic property (.e.g., archaeological sites, large land areas, multiple activities, or widely divergent alternatives within the APE), or Caltrans or a local agency is legally mandated to make a final decision on the project that does not mesh with the timeframes for complying with Section 106.
2. Caltrans has routine management and maintenance activities involving historic properties for which federal funds, permits or licenses may be required, such as maintaining historic highways or bridges.

The process for consulting with affected parties and drafting a project PA is the same as for a project MOA. The PA format is the same as described above for an MOA, in terms of including the PA title, preamble, stipulations and signatures. However, it may contain stipulations for how to phase identification and evaluation of historic properties, how to phase assessing potential effects to historic properties, or developing the appropriate plans for treating the types of historic properties that are found when prudent and feasible alternatives are identified.

Additionally, the process for consulting with affected parties and drafting a project PA for Caltrans routine management or maintenance activities is the same as for a project MOA, but the activities will be more focused in the stipulations and may not address adverse effects, but rather ways in which adverse effects can be avoided, when CSO or SHPO review is appropriate and situations in which certain activities may have an adverse effect.

Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

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Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

Table A: Section 106 and State-Only Documents

DOCUMENT	COPIES TO CSO	COPIES DIRECTLY TO SHPO
HPSR: "Findings – HPSR to District File"	0	0
HPSR: "Findings – HPSR to CSO"	1	0
HPSR: "Findings – HPSR to SHPO"	1	1
Supplemental HPSR (with properties)	1	1
Finding of No Historic Properties Affected (If prepared separately from HPSR)	1	1*
Finding of No Adverse Effect	2	0
Finding of No Adverse Effect with Standard Conditions	1	0
Finding of Adverse Effect	2	0
Draft MOA	2	0
HRCR: "Findings – HRCR to District File"	0	0
HRCR: "Findings – HRCR to SHPO" Eligibility Finding	1**	1*
HRCR: "Findings – HRCR to CSO" No Adverse Effect with Standard Conditions & Adverse Effects to State-owned historical resource not on Master List	1**	0
HRCR: "Findings – HRCR to CSO" Master List Resources: No Adverse Effect and Adverse Effect	2**	0
PRC 5024 correspondence with SHPO	1**	
* = Only send a copy to SHPO when in consultation about eligibility of properties		
** = Send to Built Environment Preservation Services Branch (BEPS)		

Table B: Required Copies of Archaeological Documents*

DOCUMENT	COPIES TO CSO	COPIES TO INFO CENTER	COPIES TO CONSULTING PARTIES (TRIBES, ETC.)	COPIES DIRECTLY TO SHPO	COPIES TO PERMITTING AGENCIES (COE, USFS, ETC.)
Proposals					
Extended Phase I	-	-	#	-	1
Phase II (Archaeological Evaluation)	-	-	#	-	1
Phase III (Data Recovery Plans, Treatment Plans, or Mitigation Proposals)	1*	-	#	-	1
Reports					
DPR 523 Record forms	1*	2	#	1*	1*
ASR	1*	1	#	1*	1*
Extended Phase I	1*	1	#	1*	1*
Phase II (Archaeological Evaluation)	1*	1	#	1*	1*
Phase III (Data Recovery, Final Excavation, or Mitigation Reports)	1	1	#	1	1

* = Include copies as attachments to management documents (HPSR or Findings of Adverse Effect).

= Send copies to appropriate groups as requested.

Table C: Required Reviews for Cultural Resource Documents

DOCUMENT	COMPLIANCE TYPE	PEER REVIEW CALTRANS STAFF PQS LEVEL	REVIEW FOR APPROVAL CALTRANS STAFF PQS LEVEL	FINAL APPROVAL
* Attached reports and studies must be peer reviewed and approved by appropriate Caltrans PQS at the Principal Investigator (Prehistoric Archaeology, Historical Archaeology) or Principal Architectural Historian level				
Screened Undertaking Memo	Satisfies Section 106. Supports CEQA and PRC 5024 Findings	Lead ¹ and above, AH ² and above	Not required	Not Required
ASR No properties identified	Section 106 Finding CEQA and PRC 5024 supporting document	Co PI ³ (Prehistoric or Historical Archaeology) and above	Co-PI (Prehistoric or Historical Archaeology) and above	District or CSO EBC
ASR Properties identified	Section 106 supporting document CEQA and PRC 5024 supporting document	Co PI (Prehistoric or Historical Archaeology) and above	Co-PI (Prehistoric or Historical Archaeology) and above	District or CSO EBC
Letter Report	Section 106 Finding when Section 106 PA does not apply	Co-PI and above and/or PAH ⁴ , as appropriate	Co-PI and above or PAH, as appropriate	District or CSO EBC
AER Eligibility determination (eligible or not eligible)	Section 106 supporting document CEQA and PRC 5024 supporting document	PI (Prehistoric Archaeology)	PI (Prehistoric Archaeology)	District or CSO EBC

Table C is continued on the following pages.

¹ Lead Archaeological Surveyor

² Architectural Historian

³ Co-Principal Investigator

⁴ Principal Architectural Historian

Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

DOCUMENT	COMPLIANCE TYPE	PEER REVIEW CALTRANS STAFF PQS LEVEL	REVIEW FOR APPROVAL CALTRANS STAFF PQS LEVEL	FINAL APPROVAL
<p>* Attached reports and studies must be peer reviewed and approved by appropriate Caltrans PQS at the Principal Investigator (Prehistoric Archaeology, Historical Archaeology) or Principal Architectural Historian level NRHP = National Register of Historic Places CRHR = California Register of Historical Resources CHL = California Historical Landmark</p>				
HRER Historical archaeology Eligibility determination (eligible or not eligible)	Section 106 supporting document CEQA and PRC 5024 supporting document	PI (Historical Archaeology)	PI (Historical Archaeology)	District or CSO EBC
HRER Built environment (eligible or not eligible)	Section 106 supporting document CEQA and PRC 5024 supporting document	PAH	PAH	District or CSO EBC
ESA Action Plan	Used in Section 106 consultation, supports FNAE-SC Supports CEQA and PRC 5024 Findings	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District or CSO EBC
XPI Proposal and Report	Used in Section 106 consultation Supports CEQA and PRC 5024 Findings	PI (Prehistoric or Historical Archaeology, as appropriate)	PI (Prehistoric or Historical Archaeology, as appropriate)	District or CSO EBC
Phase II Proposal and Report	Used in Section 106 consultation Supports CEQA and PRC 5024 Findings	PI (Prehistoric or Historical Archaeology, as appropriate)	PI (Prehistoric or Historical Archaeology, as appropriate)	District or CSO EBC
Phase III (Data Recovery) Proposal and Plan	Used in Section 106 consultation Supports CEQA and PRC 5024 Findings	PI (Prehistoric or Historical Archaeology, as appropriate)	PI (Prehistoric or Historical Archaeology, as appropriate)	District or CSO EBC
No Adverse Effect Finding w/Standard Conditions	Section 106 Finding; Supports CEQA and PRC 5024 Findings	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District or CSO EBC
No Adverse Effect Finding without Standard Conditions	Section 106 Finding Supports CEQA and PRC 5024 Findings	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District or CSO EBC
Finding of Adverse Effect	Section 106 Finding Supports CEQA and PRC 5024 Findings	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District or CSO EBC

Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

DOCUMENT	COMPLIANCE TYPE	PEER REVIEW CALTRANS STAFF PQS LEVEL	REVIEW FOR APPROVAL CALTRANS STAFF PQS LEVEL	FINAL APPROVAL
* Attached reports and studies must be peer reviewed and approved by appropriate Caltrans PQS at the Principal Investigator (Prehistoric Archaeology, Historical Archaeology) or Principal Architectural Historian level NRHP = National Register of Historic Places CRHR = California Register of Historical Resources CHL = California Historical Landmark				
Memorandum of Agreement	Section 106 Finding	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District Director
HPSR TO FILE No cultural resources in the APE	Section 106 Finding	Lead and above, AH and above	Lead and above, AH and above	District or CSO EBC
HPSR TO FILE Resources Exempt from Evaluation	Section 106 Finding	Co-PI and above, AH and above	Co-PI and above, AH and above	District or CSO EBC
HPSR TO FILE No Historic Properties Affected: APE contains previously evaluated as not eligible for the NRHP	Section 106 Finding	Lead and above, AH and above	Lead and above, AH and above	District or CSO EBC
HPSR TO FILE No Historic Properties Affected: NRHP listed/eligible properties are within the APE	Section 106 Finding	PI and/or PAH, as appropriate	PI and/or PAH, as appropriate	District or CSO EBC
HPSR to CSO No Adverse Effect with Standard Conditions	Summary document	* PI and/or PAH, as appropriate	* PI and/or PAH, as appropriate	District or CSO EBC
HPSR to SHPO Resources in the APE required evaluation, both ineligible and eligible resources	Summary document, SHPO consultation	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR TO FILE No cultural resources in the PAL ⁵	Summary document Supports CEQA Finding PRC 5024 Finding	Lead and above, AH and above	Lead and above, AH and above	District or CSO EBC

⁵ Project Area Limits

Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

DOCUMENT	COMPLIANCE TYPE	PEER REVIEW CALTRANS STAFF PQS LEVEL	REVIEW FOR APPROVAL CALTRANS STAFF PQS LEVEL	FINAL APPROVAL
<p>* Attached reports and studies must be peer reviewed and approved by appropriate Caltrans PQS at the Principal Investigator (Prehistoric Archaeology, Historical Archaeology) or Principal Architectural Historian level NRHP = National Register of Historic Places CRHR = California Register of Historical Resources CHL = California Historical Landmark</p>				
HRCR TO FILE Resources Exempt from Evaluation	Summary document Supports CEQA Finding PRC 5024 Finding	Co-PI and above, AH and above	Co-PI and above, AH and above	District or CSO EBC
HRCR to File Resources in PAL required evaluation, both ineligible and eligible resources, but <i>no evaluated resources are state-owned</i>	Summary document Supports CEQA Finding PRC 5024 Finding	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR to SHPO Resources in PAL required evaluation, both ineligible and eligible resources, and include state-owned resources that were evaluated.	Summary document SHPO PRC 5024 notification and/or consultation Supports CEQA Finding	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR TO FILE No Impact to Historical Resources: PAL contains resources previously evaluated as not eligible for the NRHP, CHL, CRHR or as a historical resource under CEQA	Summary document Supports CEQA Finding PRC 5024 Finding	Lead and above, AH and above	Lead and above, AH and above	District or CSO EBC
HRCR TO FILE No Impact to Historical Resources: Historical resources are within the PAL and none are state-owned	Summary document Supports CEQA Finding PRC 5024 Finding	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR TO SHPO No Impact to Historical Resources / No Effect: PAL contains historical resources, including state-owned historical resources	Summary document Supports CEQA Finding SHPO PRC 5024 notification	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC

Exhibit 2.11: Required Copies and Required Reviews of Cultural Resources Documents

DOCUMENT	COMPLIANCE TYPE	PEER REVIEW CALTRANS STAFF PQS LEVEL	REVIEW FOR APPROVAL CALTRANS STAFF PQS LEVEL	FINAL APPROVAL
<p>* Attached reports and studies must be peer reviewed and approved by appropriate Caltrans PQS at the Principal Investigator (Prehistoric Archaeology, Historical Archaeology) or Principal Architectural Historian level NRHP = National Register of Historic Places CRHR = California Register of Historical Resources CHL = California Historical Landmark</p>				
HRCR to File No Substantial Adverse Change: PAL contains historical resources and none of the historical resources are state-owned	Summary document Supports CEQA Finding PRC 5024 Finding	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR to CSO No Adverse Effect with Standard Conditions, Standard Conditions apply to state-owned historical resources	Summary document Supports CEQA Finding PRC 5024 Finding	* PI and/or PAH, as appropriate	* PI and/or PAH, as appropriate	District or CSO EBC
HRCR to SHPO No Substantial Adverse Change / No Adverse Effect: PAL contains historical resources and include no adversely affected state-owned historical resources	Summary document Supports CEQA Finding SHPO PRC 5024 notification and/or consultation	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR to File Substantial Adverse Change: PAL contains historical resources and none of the historical resources are state-owned	Summary document Supports CEQA Finding PRC 5024 Finding	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC
HRCR to SHPO Substantial Adverse Change / Adverse Effect: PAL contains historical resources and include adversely affected state-owned historical resources	Summary document Supports CEQA Finding SHPO PRC 5024 notification and/or consultation	* Lead and above, AH and above	* Lead and above, AH and above	District or CSO EBC

Exhibit 2.12: Letters and Memos Format and Content Guide

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Exhibit 2.12: Annotated Letters and Memos

Introduction

The purpose of this exhibit is to provide guidance to Caltrans staff who are responsible for drafting correspondence between: the Caltrans Districts (Districts) and the State Historic Preservation Officer (SHPO), the Districts and the Caltrans Headquarters Cultural Studies Office (CSO) within the Division of Environmental Analysis, and between CSO and the SHPO or the Advisory Council on Historic Preservation (ACHP) regarding compliance with Section 106 of the National Historic Preservation Act, as amended, Public Resources Code (PRC) Section 5024, and pursuant to the 2014 Section 106 Programmatic Agreement (106 PA¹) and the 2015 Public Resources Code (PRC) 5024 Memorandum of Understanding (5024 MOU²). This guidance will ensure that correspondence among these entities is consistent and predictable so that readers can conduct their reviews more efficiently. It will also ensure that the correspondence adheres more closely to Caltrans guidelines and accessibility policies regarding correspondence in general.

While the following guidance specifically addresses correspondence between the Caltrans districts, the Cultural Studies Office and the State Historic Preservation for compliance with Section 106 of the National Historic Preservation Act, as amended, and for state-owned cultural resources California Public Resources Code Section 5024, the same letter format should be used for correspondence with consulting or interested parties, other external recipients. For correspondence internal to Caltrans, use the memo format.

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.

² 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, effective January 1, 2015.

Letter Headings, Addresses, and References.

Use Caltrans letterhead for all correspondence being sent *outside* of Caltrans.

- Using the Caltrans letterhead serves two purposes: first, it formalizes the submittal, making it clear that the letter is the official communication from Caltrans to the State Historic Preservation Officer (SHPO), Advisory Council on Historic Preservation (ACHP) or other external recipients; and second, it allows the reviewer to know at a glance from which agency the letter came.
- Use Times New Roman font, 12 or 13 points as the default “serif” font. If using a sans serif font, it should be Arial or Helvetica font, 11 or 12 points, or 10 points within tables. For paragraph alignment, use left-aligned, ragged-right margins with 6- to 12-point space below the paragraph. Do not add extra hard returns (pressing “enter” twice). This accomplishes two things: 1) it is easier to read ragged-right paragraphs in a minimum of 12 points for serif fonts and 11 points for sans serif fonts, especially for those with vision or reading difficulties; and 2) not using hard returns saves both page space and reduces the size of the electronic document.

Address Letter to the SHPO.

- The SHPO is the individual identified in the regulations and the agreement document—the 106 PA or the 5024 MOU—as the person with whom agencies must consult. It does not matter that staff actually review the majority of the submittals rather than the SHPO.
- Spell out “State Historic Preservation Officer” in the address; do not use the acronym.

Attention Line

Use an "Attention" line to identify the actual reviewer, if known. Put the attention line in the address block to help ensure the letter and supporting documentation is routed more quickly to the correct reviewer. If that reviewer recently left the office or was reassigned, it is still helpful to use the reviewer’s name, as another staff person has probably "inherited" the project, meaning that the submittal would get routed to his or her replacement.

Example: Ms./Mr./Dr. Firstname SHPOlastname
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, CA 94296-0001
Attention: Mr./Ms. Reviewer Name

SHPO Tracking Number

Use the SHPO tracking number if one has been assigned. SHPO's clerical staff assign this number to the project when they first encounter it. Using this number alerts staff that the office already has a file on this project, greatly increases the chance that the submittal will make it to the right reviewer, and that it will be matched to previous files for the project. If the tracking number is not used, there is a risk that a new file number will be assigned, which will be more confusing for everyone.

SHPO assigns file numbers as shown in the following example:

FHWA140804A

In the above example, the tracking number indicates that the project was the first FHWA submittal checked in on August 4, 2014.

Similarly, a tracking number of CATRA_2015_0107_001 means that this was the first Caltrans PRC 5024 submittal checked in on January 7, 2015.

Subject Line

Use a "Subject" line. This helps SHPO's clerical and review staff identify the submittal more quickly, and in the case of continuing consultation, to match it up with previous files. It is good to establish a name for the project that includes the route and postmiles. Ideally the project name will include a word which will aid in future keyword searches of SHPO's review database. For instance, in the first example shown below, the "Whiterock" part of the title is useful because it would probably be entered into the database and could serve as an aid in future database searches.

Phrases, such as "Widening Project" or "Four-Lane," by themselves are not useful, because the database contains hundreds of files with these words.

Good example: Re: Historic Property Survey Report for FHWA/Caltrans Whiterock
Four-Lane Project, Inyo County, California;
09-INY-395, PM 77.3/91.6 (OHP# FHWA030804A)

Bad example: Re: Route 395 Widening Project

Body of Letter

Opening Paragraph

Be sure to include the following boilerplate paragraph(s) and indicate whether Caltrans is initiating or continuing consultation. Cite the regulatory context, e.g. consulting under the 106 PA, the 5024 MOU or both. In the fictional examples below, the first is a federal undertaking and the second is a federal undertaking with state-owned cultural resources within the project's Area of Potential Effects (APE), and the third is a state-only project with state-owned cultural resources in the Project Area Limits (PAL):

Federal Undertaking: The California Department of Transportation (Caltrans), as assigned by the Federal Highway Administration (FHWA), is continuing consultation with the State Historic Preservation Officer (SHPO) regarding the State Route 75 Interchange Improvement Project in Sawyer County. This consultation is undertaken in accordance with the January 2014 *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 National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (hereafter, the 106 PA).

Federal Undertaking with State-owned cultural resources: The California Department of Transportation (Caltrans), as assigned by the Federal Highway Administration (FHWA), is initiating consultation with the State Historic Preservation Officer (SHPO) regarding the State Route 75 Interchange Improvement Project in Sawyer County. This consultation is undertaken in accordance with the January 2014 *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 National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (hereafter, the 106 PA). In addition, there are state-owned cultural resources within the Area of Potential Effects for the project so Caltrans is concurrently initiating consultation with SHPO pursuant to Stipulation III of the January 2015 *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* (hereafter, 5024 MOU).

State-owned Historical Resources (PRC 5024):

The California Department of Transportation (Caltrans) is initiating consultation with the State Historic Preservation Officer (SHPO) regarding the proposed Caltrans Sawyerville Equipment Yard Excess Parcel Transfer

Project, Sawyer County, California. This consultation is undertaken in accordance with the January 2015 *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* (hereafter, the 5024 MOU).

Second Paragraph

Identify the materials enclosed with the letter and explain their purpose.

Example: Enclosed with this letter are the Historic Property Survey Report (HPSR), Archaeological Survey Report (ASR), and the Historical Resources Evaluation Report (HRER). The HPSR summarizes consulting party and public participation; and identification efforts, including Caltrans' determination of the Area of Potential Effects (APE), and identification of historic properties located within the Undertaking's APE. The ASR and XPI contain more detailed information on the archaeological resources within the APE, and the HRER contains evaluations of the built-environment resources within the APE.

Third Paragraph

- Summarize the scope and scale of the project
- Identify where the reviewer can find more detail, e.g., "See attachment 3 of the HPSR."

Example: In conjunction with Caltrans, the County of Sawyer is proposing to replace the current signalized intersection of SR 75 and Sawyer Road by constructing a grade-separated partial cloverleaf interchange. This interchange project will consist of a bridge structure over SR 75 and associated ramps. The complete project description is on page 2 of the HPSR. The APE consists of current right of way and is located in Attachment 3 of the HPSR.

Subsequent Paragraphs

Subsequent paragraphs summarize the results of the studies or findings:

- List the resource(s) by type and summarize their eligibility. For eligible properties, include the eligibility criteria, level, and period of significance, and date of listing or determination if previously evaluated.
- Clearly state every item for which Caltrans is requesting SHPO concurrence and identify the relevant federal and/or PRC 5024 stipulation(s) for each item.

Example:

Consultation and identification efforts for the proposed undertaking (summarized on pages 15-18 in the attached HPSR) resulted in the identification of two historic properties within the APE, as follows:

- Public Market Building, Sawyerville; listed on 12/1/1998 on the National Register of Historic Places (NRHP) at the local level of significance under Criterion A for its association with the community's agricultural development, and Criterion C for its Art Moderne architectural style. Its period of significance is 1932-1945.
- Warren Ranch, Sawyerville, determined eligible for inclusion in the NRHP at the local level of significance under Criterion C as a rare surviving example of a German-Russian farmstead. Its period of significance is 1895-1929.

No archaeological sites were identified within the APE.

Pursuant to **Stipulation VIII.C.6 of both the Section 106 PA and the PRC MOU**, Caltrans requests your concurrence with the following eligibility determination and requests that you place the property on the Master List of Historical Resources:

Warren Ranch, Sawyerville, determined eligible **for inclusion in the NRHP at the local level of significance** under Criterion C **as a rare surviving example of a German-Russian farmstead**. Its period of significance is 1895-1929. This is a state-owned property.

We look forward to your response within 30 days of your receipt of this submittal, in accordance with **Stipulation VIII.C.6.a of both the Section 106 PA and of the PRC 5024 MOU**. We are providing a concurrent copy of this documentation to the Caltrans Division of Environmental Analysis Cultural Studies Office.

In accordance with **Stipulation IX.B of both the Section 106 PA and the PRC 5024 MOU**, Caltrans has determined that **there are historic properties within the APE that may be affected by the undertaking**. Consequently, Caltrans will apply the Criteria of Adverse Effect, and, as assigned by FHWA, **will continue consultation** with the SHPO pursuant to Section 106 PA Stipulation X. In addition, Caltrans will continue consultation pursuant to PRC 5024 MOU Stipulation X.

Contact Person

Identify the contact person for the project. It is convention to identify the actual writer of a letter (as opposed to the signatory) in the last paragraph or sentence of a letter.

This is the specialist who will actually be able to answer detailed questions about the project, rather than his or her supervisor or the agency official signing the submittal letter.

Example: If you need any additional information, please contact Rusty Wrangler at phone: 555-555-5555 or by e-mail: Rusty.Wrangler [at] dot.ca.gov.

Make sure to include the contact person's phone number, email address, and fax number so that the reviewer can quickly reach him or her if more information is needed. If the mailing address is different than the signatory's, include that information as well. Some people staple a business card to the submittal letter, which provides full contact info and signals to reviewers who they are supposed to contact for more information.

Acknowledge Assistance.

Acknowledge the SHPO's assistance. It is a matter of professional courtesy to thank the people with whom one is communicating (in this case SHPO). Keep it short and simple, unless a reviewer has really gone out of his or her way to help keep the project on schedule.

Signatures, Attachments, and Copies

Signatory, Title, Affiliation and Location

A Senior Environmental Branch Chief or higher-level of management should sign the letter. Again, this is a convention; it does not matter whether he or she actually wrote the letter. It is understood that the actual writer is identified elsewhere in the letter.

Identify title, affiliation, and location of signatory. This can help the reviewer know the utility of contacting the signatory versus other staff identified in the letter.

Enclosures

List appropriate enclosures.

- Use the word “enclosure(s)” for letters that are going outside of Caltrans.
- The submittal should include any and all documentation needed to support the findings as well as the items for which SHPO’s concurrence is being requested. There are no rules here as to the type of enclosures to include. The submittal might include maps, technical studies, photographs, copies of correspondence, a videotape of previous disturbances to a site, copies of telephone logs—whatever is needed to make support the findings, as required by 36 CFR 800.11, 106 PA Stipulation XVIII and 5024 MOU Stipulation XVII.
- Insufficient documentation is the most common cause of delays in the review process. On the other hand, the submittal should not be cluttered with unnecessary attachments that might confuse the reviewer. Also, it is important to remember that SHPO has limited storage space, and discards older materials or sends them

to a storage warehouse where they are extremely difficult to access. This means that the SHPO reviewer may no longer have access to the HPSR, as an example, that was sent to SHPO two years ago during a previous round of consultation on the project.

- As a rule of thumb, if something was sent in more than a year ago, assume it is not accessible to the reviewer, and enclose a new copy with the submittal.

Copies

Copy individuals as appropriate.

- Make sure to study the 106 PA or the 5024 MOU to identify to whom copies need to be provided and list these individuals and organizations.
- The Caltrans CSO Section 106 Branch and Programmatic Agreement Chief (Section 106 Branch Chief) and, when state-owned cultural resources are involved the CSO Built Environment Preservation Services Branch Chief (BEPS Branch Chief) are copied because the people in these positions have been assigned or delegated FHWA and SHPO responsibilities and are acting in those roles, as opposed to other Caltrans staff.
- Caltrans uses “c:” instead of cc for its correspondence.

Blind Copies

- Send blind copies (bc) to in-house staff, such as to your supervisor or the project manager. Others within Caltrans are always sent blind copies and their names are listed on a separate page. The Division of Environmental Analysis Environmental Coordinator should be copied, in addition to the appropriate Headquarters Cultural Studies Office staff (when not acting in an official FHWA or SHPO capacity).
- The “bc” page is not sent to SHPO or to the others listed under “c.”

Memorandum Headings, Addresses, and References.

Use Caltrans Memorandum (memo) format for correspondence internal to Caltrans.

- Using the Caltrans memo format serves two purposes: first, it formalizes the submittal, making it clear that the letter is the official communication from the Caltrans District to the Cultural Studies Office (CSO), in its assignment as lead the lead federal agency under the 106 PA for certain delegated actions, and as the

delegated authority for certain responsibilities under the 5024 MOU. Second, it allows the reviewer to know at a glance from which district the memo came.

- Use Times New Roman font, 12 or 13 points as the default “serif” font. If using a sans serif font, it should be Arial or Helvetica font, 11 or 12 points, or 10 points within tables. For paragraph alignment, use left-aligned, ragged-right margins with 6- to 12-point space below the paragraph. Do not add extra hard returns. This accomplishes two things: 1) it is easier to read ragged-right paragraphs in a minimum of 12 points for serif fonts and 11 points for sans serif fonts, especially for those with vision or reading difficulties; and 2) not using hard returns saves both page space and reduces the size of the electronic document.

Address memo to the CSO Office Chief.

- The CSO Office Chief is the individual identified in the agreement document—the 106 PA or the 5024 MOU—as the person with whom the Caltrans District must consult for activities delegated to CSO. The person’s name should be typed in all capital letters.

Memo is from the Senior Environmental Branch Chief or Higher

Identify the sender’s name (in all capital letters), title, division, district, and mail stop (e.g. M.S 27).

"Attention" Line

Put the attention line in the address block to help ensure the letter and supporting documentation is routed more quickly to the Section 106 Branch Chief for actions under the 106 PA, or to the BEPS Branch Chief for actions under the 5024 MOU. If that reviewer recently left the office or was reassigned, it is still helpful to use that person's name, as another staff person has probably "inherited" the project, meaning that the submittal would get routed to his or her replacement.

Example:

MR./MS. FIRSTNAME LASTNAME
Cultural Studies Office Chief
Division of Environmental Analysis (M.S. 27)
Attention: Branch Chiefname

Project Identifier

Under “File,” add the Project identifier information. Include the project or activity name, county, route and postmiles, if applicable, and the project EA.

SHPO Tracking Number

Use the SHPO tracking number in the File name, if one has been assigned. However, if the memo only goes to CSO there may not be a SHPO tracking number.

Subject Line

In the Subject line, include the findings for which Caltrans is seeking CSO concurrence

Example: Request for Concurrence on the Finding of No Adverse Effect with Standard Conditions: ESA for the State Route 75 Interchange Improvement Project in Sawyer County (99-SAW-75 PM 45.7/45.9, EA 9X999).

Body of Memo

The text in the body of the memo is essentially the same as for the letter format; see [Opening Paragraph](#), [Second Paragraph](#), [Third Paragraph](#), [Subsequent Paragraphs](#), [Contact Person](#) in the letter format above.

Signatures, Attachments, and (Carbon) Copies

Signatory, Title, Affiliation and Location

A Senior Environmental Branch Chief or higher signs or initials the “from box” at the beginning of the memo.

Attachments.

List appropriate attachments and use the word “attachment(s)” for memoranda sent within Caltrans. Additional guidance is contained above under the letter format [Enclosures](#).

Copies and Blind Copies

See [Copies](#) and [Blind Copies](#) in the letter format above for guidance.

Sample Letters and Memos

Attached are fictional project examples of the letter format for use with external agencies, organizations or people outside of Caltrans, such as the SHPO, FHWA, ACHP or interested parties, and memo format examples for use within Caltrans. They examples include:

- Sample 1: Letter to SHPO - Eligible Historic Properties (Federal undertaking with state-owned resources)
- Sample 2: Memo to CSO - Finding of No Adverse Effect with Standard Conditions (Federal undertaking, no state-owned historic properties)
- Sample 3: Letter to SHPO - Finding of Adverse Effect (Federal undertaking with state-owned historic properties)
- Memo Sample 4: Memo to CSO - Finding of No Adverse Effect with Standard Conditions: CLG (State-only activity to transfer state-owned historical resource)
- Sample 5: Letter to SHPO - Finding of Adverse Effect (State-only activity with state-owned historical resources on the Master List of Historical Resources)
- Sample 6: Memo to CSO - Finding of Adverse Effect (State-only activity with state-owned historical resources not on the Master List of Historical Resources)

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 1— Letter to SHPO: Eligible Historic Properties (Fictional Example)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, JR., Governor

DEPARTMENT OF TRANSPORTATION

DISTRICT 14, ENVIRONMENTAL

2877 SAWYER HEIGHTS DRIVE

SAWYERVILLE, CA 95556

PHONE (555) 555-0555

FAX (555) 555-0555

TTY (555) 555-4555



Serious Drought!
Help save water!

**Use Caltrans
letterhead, not
memo format.**

Date is essential.

January 29, 2015

**Address all
submittals to SHPO.**

Ms. Firstname SHPOlastname
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, CA 94296-0001

**Use an "Attention"
line for the Project
Review Unit Chief.**

Attention: Mr./Ms. Reviewer Name

**Subject line helps
identify the project
as a federal
undertaking with a
state-owned
property.**

Subject: Determination of Eligibility for the proposed State Route 75 Interchange Project,
Sawyer County, California, 14-SAW-75, PM 8.3/9.4 EA 1000000068, pursuant to 36
CFR 800 and California Public Resources Code 5024

Dear Ms. SHPOlastname:

**Paragraph 1:
State whether
consultation is initial
or continuing and,
refer to the regulatory
context of
consultation (i.e., the
Section 106 PA and
PRC 5024 MOU).
NEPA assignment
language is not
required because the
2014 PA covers it.**

The California Department of Transportation (Caltrans) **is initiating consultation** with the State Historic Preservation Officer (SHPO) regarding the State Route 75 Interchange Project in Sawyer County. This consultation is undertaken in accordance with the January 1, 2014 *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 (Section 106 PA)*. Caltrans is **concurrently complying with PRC 5024 pursuant to Stipulation III** of the *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 (5024 MOU)* and, per that stipulation **requests that you use the Section 106 documentation in your review.**

**Paragraph 2:
Identify submitted
materials and explain
their purpose.**

Enclosed please find the **Historic Property Survey Report (HPSR)**, which **summarizes identification and evaluation efforts** for the project. Under the Section 106 PA, Caltrans is responsible for ensuring the adequacy of the APE (Stipulation VIII.A) and identification efforts (Stipulation VIII.B). Attached to the HPSR are the **Archaeological Survey Report (ASR)** and the **Historical Resources Evaluation Report (HRER)**, **which more fully describe the cultural resources within the APE.**

Caltrans is proposing to **replace the current signalized intersection of SR 75 and Sawyer Road by constructing a grade-separated partial cloverleaf interchange. This interchange project will consist of a bridge structure over SR 75 and associated ramps.**

The complete project description is on **pages 1 and 2 of the HPSR**. The APE consists of current right of way and is located in **Attachment 3 of the HPSR**.

Paragraph 3:
Summarize the scope and scale of the project.

Identify where reviewer can find more detail.

Subsequent paragraphs summarize the results of the studies:
List the resources by type and summarize the eligibility of the resources.

For eligible properties, include the eligibility criteria, level, and period of significance, and date of listing or determination if previously evaluated.

Identify relevant stipulation for each item for which SHPO concurrence and comments are being requested.

In this letter, Caltrans is requesting National Register eligibility concurrence for just one property, both for the federal undertaking and because one of the hypothetical properties is state-owned.

Consultation and identification efforts for the proposed undertaking (summarized on **pages 15-18 of the enclosed HPSR**) resulted in the identification of the following two historic properties within the APE:

- Public Market Building, Sawyerville; **listed on 12/1/1998 on the National Register of Historic Places (NRHP) under Criteria A and C at the local level of significance; period of significance 1932-1945.**
- Warren Ranch, Sawyerville, **determined eligible under Criterion C at the local level of significance. Its period of significance is 1895-1929.**

The entire Sawyerville Rapid Transit system was not evaluated because it does not differ substantially from other existing train systems, and does not have unique engineering design when compared to the Indiana Tunnel.

No archaeological sites were identified within the APE.

Pursuant to **Section 106 PA Stipulation VIII.C.6 and PRC 5024 MOU Stipulation VIII.C.6, Caltrans requests your concurrence with the following eligibility determination and requests that you add the property on the Master List of Historical Resources:**

Warren Ranch, Sawyerville, is **eligible for the NRHP under Criterion C, at the local level of significance. Its period of significance is 1895-1929.** This is a state-owned property.

Identify length of review period

Clearly state every item for which you are requesting concurrence.

We look forward to **your response within 30 days of your receipt** of this submittal, in accordance with **Stipulation VIII.C.6.a of both the Section 106 PA and the 5024 MOU**. We are providing a concurrent copy of this documentation to the Caltrans Division of Environmental Analysis Cultural Studies Office.

← Under NEPA assignment, the documentation goes CSO.

If applicable, state what other consultation might be required.

Caltrans has determined that there are historic properties and state-owned historical resources within the APE that may be affected by the undertaking, in accordance with **Stipulation IX.B of both the Section 106 PA and the 5024 MOU**. Consequently, **Caltrans will apply the Criteria of Adverse Effect, and will continue consultation with the SHPO** pursuant to **Stipulation X of both the Section 106 PA and the 5024 MOU**.

Identify lead staff person for the project, and provide full contact info.

If you need any additional information, please do not hesitate to contact Caltrans District 14 Archaeologist **Mr. Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson@dot.ca.gov)**. Thank you for your assistance with this undertaking.

Sincerely,

Signed by person of appropriate status, including title and location.

JACK DRAKE, Chief
East Region Environmental Management, Branch S5

List all submitted materials.

Enclosures: State Route 75 Interchange Project, Sawyer County Historic Property Survey Report, Archaeological Survey Report (ASR), Historical Resources Evaluation Report

Copy other organizations as appropriate.

c: Appropriate Branchchiefname – Office of Historic Preservation
Appropriate Reviewername – Office of Historic Preservation
106Branch Chiefname – Caltrans Division of Environmental Analysis
(in this case CSO is the federal agency)
BEPSbranch Chiefname– Caltrans Division of Environmental Analysis
(when state-owned resources are involved, per the PRC 5024 MOU)
Any Consulting Parties

-----**Insert page break here**-----

Blind Copy other Caltrans staff as appropriate.

bc: Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – SR 75

Although depicted here to illustrate potential recipients, such as other Caltrans staff, blind copy lines always go on separate page.

Do not send the "bc" page to the main addressee(s) or to external parties.

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 2 — Memo to CSO: Finding of No Adverse Effect with Standard Conditions (Fictional Example)

Use Caltrans Memorandum, not letterhead.

State of California

California State Transportation Agency

M e m o r a n d u m

*Serious drought
Help Save Water!*

Address memo to Cultural Studies Office Chief, who is legally responsible for approval of FNAE-SE.

To: FIRSTNAME LASTNAME
Chief
Cultural Studies Office
Division of Environmental Analysis
Attention: Branchchief Name

Date: July 31, 2015
File: 2400001256
EA: 14A800
14-SAW-78
PM 20.15 - 20.17

Attention line is to the Section 106 Branch Chief.

Initialed by District Environmental Branch Chief or higher, including title and location.

From: JACK DRAKE
Chief
East Region Environmental Management, Branch S5

Subject: **FINDING OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS - ENVIRONMENTALLY SENSITIVE AREA FOR THE GARGOYLE BRIDGE (BRIDGE #99-0099) REPLACEMENT PROJECT, SAWYER COUNTY, CALIFORNIA.**

Paragraph 1: State whether consultation is initial or continuing and, refer to the regulatory context of consultation (i.e., the Section 106 PA and PRC 5024 MOU).

The California Department of Transportation (Caltrans) **is continuing consultation** with you regarding the State Route 78 Gargoyle Bridge (Br # 99-0099) Replacement Project in Sawyer County. This consultation is undertaken in accordance with the January 1, 2014 *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 (Section 106 PA)*.

Paragraph 2: Identify submitted materials and explain their purpose.

Enclosed please find the **Supplemental Historic Property Survey Report** (Supp. HPSR), which **summarizes the additional identification and evaluation efforts** for the project. Under the Section 106 PA, Caltrans is responsible for ensuring the adequacy of the APE (Stipulation VIII.A) and identification efforts (Stipulation VIII.B). Attached to the HPSR are the **Archaeological Survey Report** (ASR) and the **Historical Resources Evaluation Report** (HRER), which more fully describe the cultural resources within the APE, and the **Environmentally Sensitive Area Action Plan (ESA Action Plan)** that describes the conditions that will be placed on the project to avoid adverse effects to historic properties within the APE.

Paragraph 3: Summarize the scope and scale of the project.

Caltrans is proposing to **replace the concrete non-historic Gargoyle Bridge on State Route 78 because it is structurally deficient, with significant corrosion of the rebar within the concrete. Caltrans needs a temporary construction easement on an adjacent parcel that contains the entry gate and pillars for ca.1960 Mid-20th Century Modern medical office**

Identify where reviewer can find more detail.

campus. The complete project description is on **pages 1 and 2 of the HPSR**. The APE consists of current right of way and the temporary easement on the adjacent parcel, the description for which is located in **Attachment 3 of the HPSR**.

Subsequent paragraphs summarize the results of the studies: List the resources by type and summarize the eligibility of the resources.

Consultation and identification efforts for the proposed undertaking (summarized on **pages 15-18 of the enclosed HPSR**) resulted in the identification of the following two properties within the APE that Caltrans is assuming are eligible for inclusion in the National Register of Historic Places (NRHP) for purposes of this project only, which was approved by your office on March 11, 2015 pursuant to the 106 PA Stipulations VIII.C.3 and 4:

For listed, eligible and assumed eligible properties, include the eligibility criteria, level, and period of significance, and date of listing or determination and whether the properties previously were evaluated.

- Medical Office Campus, 1150 SR 78, Sawyerville; **assumed eligible for inclusion in the NRHP under Criterion C for its Mid-20th Century Modern architecture** at the **local level** of significance; **period of significance ca.1960**. Contributing elements within the APE **include the concrete and steel entry pillars, the sculptural steel gate and the low wall of shrubbery that defines the edge of the property.**
- CA-XX-XXXX, Sawyerville, **assumed eligible for inclusion in the NRHP under Criterion D** at the **local level** of significance. Its **period of significance is 1895-1929**.

Identify relevant stipulation for each item for which CSO approval and/or comments are being requested.

Pursuant to **Section 106 PA Stipulation X.B.1.a, Caltrans District 14 requests your approval of the Finding of No Adverse Effect with Standard Conditions: Environmentally Sensitive Area (FNAE-SC: ESA)** for the Gargoyle Bridge Replacement Project. The enclosed **Supplemental HPSR** provides supporting documentation for this finding and includes the Environmentally Sensitive Area (ESA) Action Plan. The **ESA Action Plan** provides information on implementing the conditions and protocols in order to protect the Medical Office Campus and CA-XX-XXXX from adverse effects.

In this memo, the Caltrans District is requesting approval of the finding of effect for two properties that are assumed to be eligible for the NRHP for this project only.

Cite the review time frame and relevant stipulation.

District 14 **requests that you review the FNAE-SC: ESA and ESA Action Plan within 15 days of your receipt** of this submittal, in accordance with 106 PA **Stipulation X.B.1**.

Identify lead staff person for the project, and provide full contact info.

If you need any additional information, please do not hesitate to contact Caltrans District 14 Archaeologist **Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson@dot.ca.gov)**. Thank you for your assistance with this undertaking.

List all submitted materials.

Attachment: Supplemental Historic Property Survey Report, Archaeological Survey Report (ASR), Historical Resources Evaluation Report and ESA Action Plan

List Staff copied, including Sec. 106 Branch Chief, staff contact named in memo, HRC and Environmental Coordinator.

c: Branch Chiefname – Caltrans Division of Environmental Analysis
Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – SR 78

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 3 — Letter to SHPO: Finding of Adverse Effect (Fictional Example)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, JR., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENVIRONMENTAL ANALYSIS
P.O. BOX 942873, MS-27
SACRAMENTO, CA 94273-0001
PHONE (916) 653-7136
FAX (916) 653-6126
TTY 711
www.dot.ca.gov



Serious Drought!
Help save water!

Date is essential.

July 31, 2015

**Address all
submittals to SHPO.**

Ms. Firstname SHPOlastname
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, CA 94296-0001

**Use an "Attention"
line for the Project
Review Unit Chief.**

Attention: Mr./Ms. Reviewer Name

**Subject line helps
identify the project
as a federal
undertaking with a
state-owned
property.**

Subject: Finding of Adverse Effect for the proposed State Route 75 Interchange Project,
Sawyer County, California, 14-SAW-75, PM 8.3/9.4 EA 1000000068, pursuant to 36
CFR 800 and California Public Resources Code 5024

Dear Ms. Lastname:

**Paragraph 1:
State whether
consultation is initial
or continuing and,
refer to the regulatory
context of
consultation (i.e., the
Section 106 PA and
PRC 5024 MOU).
NEPA assignment
language is not
required because the
2014 PA covers it.**

The California Department of Transportation (Caltrans) **is continuing consultation** with the State Historic Preservation Officer (SHPO) regarding the State Route 75 Interchange Project in Sawyer County. This consultation is undertaken in accordance with the January 1, 2014 *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 (Section 106 PA)*. Caltrans is **concurrently complying with PRC 5024 pursuant to Stipulation III** of the *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 (5024 MOU)* and, per that stipulation **requests that you use the Section 106 documentation in your review.**

**Paragraph 2:
Identify submitted
materials and explain
their purpose.**

Enclosed please find the **Finding of Adverse Effect (FAE)**, which more fully **describes the undertaking, public participation efforts, affected historic properties, application of the criteria of adverse effect, alternatives considered but rejected and proposed mitigation measures.** At the present time **Caltrans District 14 is consulting with you under 106 PA Stipulation X.C.1**, which requires SHPO consultation regarding findings of effect.

In accordance with 106 PA Stipulation III, the document was reviewed and approved by Radcliffe Emerson, who meets the Professionally Qualified Staff (PQS) Standards in 106 PA Attachment 1 as a Principal Investigator - Prehistoric Archaeology, and by Amelia Peabody, who meets the PQS Standards as Principal Architectural Historian.

Project Description

Caltrans is proposing to **replace the current signalized intersection of SR 75 and Sawyer Road by constructing a grade-separated partial cloverleaf interchange. This interchange project will consist of a bridge structure over SR 75 and associated ramps.** The complete project description is on **pages 3 through 5 of the FAE**. The APE consists of current right of way and is located in **Attachment 3 of the FAE**.

Paragraph 3:
Summarize the scope and scale of the project. If it is a Local Assistance Project, and that information as well.

Identify where reviewer can find more detail.

Subsequent paragraphs summarize the results of the studies:
List the resources by type and summarize the eligibility of the resources.

For eligible properties, include the eligibility criteria, level, and period of significance, and date of listing or determination if previously evaluated.

Consultation and identification efforts for the proposed undertaking (summarized on **pages 19-20 of the enclosed FAE**) resulted in the identification of the following two historic properties within the APE:

- Public Market Building, Sawyerville; **listed on 12/1/1998 on the National Register of Historic Places (NRHP) under Criteria A and C at the local level of significance; period of significance 1932-1945.**
- Warren Ranch, Sawyerville, **determined eligible by Caltrans under Criterion C at the local level of significance. Its period of significance is 1895-1929. SHPO concurred with this determination on February, 2015 (see attachment 5 of the FAE).** Because this is a Caltrans-owned historical resource, pursuant to PRC 5024(b) it was placed on the Master List of Historical Resources.

Finding of Adverse Effect

Pursuant to 106 PA Stipulation X.A, Caltrans has applied the Criteria of Adverse Effect set forth at 36 CFR 800.5(a)(1) and finds that the undertaking will have no adverse effect on Public Market Building and will an Adverse Effect on the Caltrans-owned Warren Ranch. These **findings are described in pages 30 to 45 of the FAE and in Attachment 4.**

Summary and Conclusion

At the present time, pursuant to **106 PA Stipulation X.C.1**, and concurrently for Warren Ranch **5024 MOU Stipulation X.C.1**, Caltrans is requesting that SHPO concur with Caltrans' Finding of Adverse Effect for the proposed undertaking.

We look forward to **your response within 30 days of your receipt** of this submittal, in accordance with **Stipulation X.C.1.b** of both the Section 106 PA and the 5024 MOU.

Clearly state findings for which you are requesting concurrence.

Clearly state the items for which you are requesting SHPO comment and concurrence. In this case, concurrence is requested under both the 106 PA and the 5024 MOU for the state-owned property. Even though the 5024 MOU Stipulation III allows Caltrans to use Section 106 PA process, the findings under the 5024 MOU still need to be stated.

Identify lead staff person for the project, and provide full contact info, and thank the SHPO for assistance.

We appreciate your continuing prompt assistance with this undertaking. If you need any additional information, please do not hesitate to contact **Mr. 106Branch Chiefname (phone: 916-555-5555; email: 106Branch Chiefname [at] dot.ca.gov)** or Caltrans District 14 Archaeologist **Mr. Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson [at] dot.ca.gov).**

Sincerely,

Caltrans Cultural Studies Chief or higher position signs the letter. Include title and location.

FIRSTNAME LASTNAME
Chief
Cultural Studies Office

List all submitted materials.

Enclosures: Finding of Adverse Effect for the State Route 75 Interchange Project in Sawyer County

Copy other organizations as appropriate.

c: Appropriate Branchchiefname – Office of Historic Preservation
Appropriate Reviewername – Office of Historic Preservation
106Branch Chiefname – Caltrans Division of Environmental Analysis
(in this case CSO is the federal agency)
BEPSbranch Chiefname – Caltrans Division of Environmental Analysis
(when state-owned resources are involved, per the PRC 5024 MOU)
Any Consulting Parties

-----**Insert page break here**-----

Blind Copy other Caltrans staff as appropriate.

bc: Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – SR 255

Although depicted here to illustrate potential recipients, such as other Caltrans staff, blind copy lines always go on separate page.

Do not send the "bc" page to the main addressee(s) or to external parties.

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 4 — Memo to CSO: Finding of No Adverse Effect with Standard Conditions: Certified Local Government (Fictional Example for Property Transfer)

Use Caltrans Memorandum, not letterhead.

State of California

California State Transportation Agency

M e m o r a n d u m

*Serious drought
Help Save Water!*

Address memo to Cultural Studies Office Chief, who is legally responsible for approval of FNAE-SE.

To: FIRSTNAME LASTNAME
Chief
Cultural Studies Office
Division of Environmental Analysis
Attention: BEPSBranch Chief Name

Date: July 31, 2015
File: 2400001256
EA: 14A850
14-SAW
Hannibal Equipment Shop

Attention line is to the Built Environment Preservation Services Branch Chief.

Initialed by District Environmental Branch Chief or higher, including title and location.

From: JACK DRAKE
Chief
East Region Environmental Management, Branch S5

Subject: FINDING OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS – CERTIFIED LOCAL GOVERNMENT FOR THE TRANSFER OF THE HANNIBAL EQUIPMENT SHOP, HANNIBAL, SAWYER COUNTY, CALIFORNIA.

Paragraph 1: State whether consultation is initial or continuing and, refer to the regulatory context of consultation (i.e., PRC 5024 MOU).

The California Department of Transportation (Caltrans) **is continuing consultation** with you regarding the transfer to private ownership of the Hannibal Equipment Shop, 4563 Thatcher way, in Hannibal, Sawyer County. This consultation is undertaken in accordance with the January 1, 2015 *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 (5024 MOU)*.

Paragraph 2: Identify submitted materials and explain their purpose.

Enclosed please find the **Supplemental Historical Resources Compliance Report** (Supp. HRCR), which **summarizes identifies the Project Are Limits, past identification and evaluation efforts, why the property is being transferred the effect of the transfer on the property**. Attached to the Supp. HRCR is 2003 City of Hannibal Historic Preservation Ordinance HAN-2003-10-23 (Hannibal Ordinance) under which the Hannibal Equipment Shop has been designated a local historic landmark.

Paragraph 3: Summarize the scope and scale of the project.

Identify where reviewer can find more detail.

Caltrans **equipment shop operations have been consolidated into its Sawyerville equipment yard and the Hannibal Equipment Shop is not longer needed for use by the state. Therefore, the property was declared excess and will be offered for sale to the general public**. The complete project description is on **page 3 of the Supp. HRCR**. The Project Area Limits (PAL) consists of current assessor's parcel boundaries for the property, the description for which is located in **Attachment 3 of the Supp. HRCR**.

Subsequent paragraphs summarize the results of the studies: List the resources by type and summarize the eligibility of the resources.

For listed, eligible and assumed eligible historical resources, include the eligibility criteria, level, and period of significance, and date of listing or determination and whether the resources previously were evaluated.

For State-owned resources, be sure to include whether they meet California Historical Landmark criteria. SHPO reviewers look to make sure both NRHP and CHL statements are in PRC 5024 documents.

Prior identification efforts for the proposed transfer (summarized on **pages 5 of the Supp. HRCR**) resulted in the identification one historical resource within the PAL that Caltrans determined is eligible for inclusion in the National Register of Historic Places (NRHP), and the State Historic Preservation Officer concurred in this eligibility on December 16, 2014 pursuant to PRC 5024(b), and added the historical resource to the Master List of Historical Resources:

- Hannibal Equipment Shop, 4563 Thatcher way, in Hannibal, Sawyer County; **determined eligible for inclusion in the NRHP and for registration as a California Historical Landmark (CHL) at the local (for the NRHP) and statewide level of significance (for the NRHP and as a CHL), under Criterion A for its association with a pivotal period in the development of the state’s highway system. It is also eligible under Criterion C for is classically inspired light-industrial brick-masonry design of the Administration and Shop Building (Shop A), and the functional characteristics of the two Repair and Paint Shop buildings. Its period of significance is from 1922 to 1961 and the property boundary is the entire parcel (refer to **Figure 4: Historical Resource Boundary Map in the enclosed Supp. HRCR**). In February 2005, the City of Hannibal designated the property to its local register as a local historic landmark (refer to the **enclosed Hannibal Ordinance**).**

Pursuant to **5024 MOU Stipulation X.B.1.c and Attachment 5, Caltrans District 14 requests your approval of the Finding of No Adverse Effect with Standard Conditions: Certified Local Government (FNAE-SC: CLG)** for the transfer of the Hannibal Equipment Shop. The **Supp. HRCR** provides supporting documentation for this finding. The **City of Hannibal became a CLG in 2003, the year it established its ordinance.**

In accordance with **5024 MOU Stipulation V and Attachment 5.C, the Supp. HRCR and the Hannibal Ordinance were reviewed and approved by Mary M. Albright** who meets the Professionally Qualified Staff (PQS) Standards in 106 PA Attachment 1 as a Principal Architectural Historian. Mr. Albright concluded that the protective measures in Section 14-5 (use of the *Secretary of the Interior’s Standards for the Treatment of Historic Properties*, and use of the California Historical Building Code) and Section 14-8 (Hannibal Historic Preservation Commission must review proposed modifications, alterations, additions and demolitions of listed local landmarks) are equivalent to the protection provided by PRC 5024 for state-owned historical resources. In addition, District 14 will provide its historical documentation and the Character-Defining Features Summary Form for the Hannibal Equipment Shop to the City of Hannibal and to the new property owner.

District 14 **requests that you review the FNAE-SC: CLG and Hannibal Ordinance within 15 days of your receipt** of this submittal, in accordance with 5024 MOU **Stipulation X.B.1.**

Cite the review time frame and relevant stipulation.

Identify lead staff person for the project, and provide full contact info.

If you need any additional information, please do not hesitate to contact Caltrans District 14 Archaeologist **Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson@dot.ca.gov)**. Thank you for your assistance with this undertaking.

List all submitted materials.

Attachment: Supplemental Historical Resources Report for the Transfer of the Hannibal Equipment Shop, City of Hannibal Historic Preservation Ordinance, and City of Hannibal 2005 Resolution for the Designation of Hannibal Equipment Shop as a Historic Landmark.

List Staff copied, including BEPS Branch Chief, staff contact named in memo, HRC and Environmental Coordinator.

c: BEPS Branch Chiefname – Caltrans Division of Environmental Analysis
Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – Hannibal Equipment Shop

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 5 — Letter to SHPO: Finding of Adverse Effect State-only Emergency / State-owned Historical Resource On Master List (Fictional Example)

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY

EDMUND G. BROWN, JR., Governor

DEPARTMENT OF TRANSPORTATION
DIVISION OF ENVIRONMENTAL ANALYSIS
P.O. BOX 942873, MS-27
SACRAMENTO, CA 94273-0001
PHONE (916) 653-7136
FAX (916) 653-6126
TTY 711
www.dot.ca.gov



Serious Drought!
Help save water!

Date is essential.

August 6, 2015

**Address all
submittals to SHPO.**

Ms. Firstname SHPOlastname
State Historic Preservation Officer
Office of Historic Preservation
P.O. Box 942896
Sacramento, CA 94296-0001

**Use an "Attention"
line for the Project
Review Unit Chief.**

Attention: Mr./Ms. Reviewer Name

**Subject line helps
identify the project
as a state-only
emergency project
with a state-owned
historical resource.**

Subject: CATRA_2015_0805_003: Finding of Adverse Effect for the proposed State Route 49 Sweetbriar Emergency Road Repair Project, Sawyer County, California, 14-SAW-49, PM 57.0/57.4 EA 1400000999, pursuant to California Public Resources Code 5024.5

Dear Ms. Lastname:

**Paragraph 1:
State whether
consultation is initial
or continuing and,
refer to the regulatory
context of
consultation (i.e., PRC
5024 MOU).**

The California Department of Transportation (Caltrans) **is continuing consultation** with the State Historic Preservation Officer (SHPO) regarding the State Route (SR) 49 Sweetbriar Emergency Road Repair Project, Sawyer County. This consultation is undertaken in accordance with the January 1, 2015 *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 (5024 MOU)*.

**Paragraph 2:
Identify submitted
materials and explain
their purpose.**

Enclosed please find the **Historical Resources Compliance Report (HRCR)**, which more fully describes the emergency repairs, affected state-owned historical resource, and emergency mitigation measures. **Caltrans District 14 is consulting with you under 5024 Stipulation XV.A**, which requires expedited SHPO consultation regarding findings of adverse effect in emergency situations.

In accordance with 5024 MOU Stipulation V, the document was reviewed and approved by Radcliffe Emerson, who meets the Professionally Qualified Staff (PQS) Standards in 5024 MOU Attachment 1 as a Principal Investigator - Prehistoric Archaeology.

Project Description

On August 5, 2015 a thunderstorm caused flash flooding to occur on SR 49 in the vicinity of Sweetbriar that caused the west shoulder to slip and washout. In addition, a portion of the Caltrans-owned Blank Page Arrastra was damaged by the flooding. Caltrans acquired the site in the 1920s when the highway was originally built. The highway is temporarily closed while the debris is cleared away and the west shoulder can be rebuilt. Caltrans is proposing to **rebuild the roadway in-kind, but to do so requires truck and machinery to use the adjoining arrastra site, the only level ground upon which to stage operations.** The complete project description is on **page 1of the enclosed HRCR.** The Project Area Limits consists of current right of way and location can be found in **Attachment 3 of the HRCR.**

Paragraph 3:
Summarize the scope and scale of the project.

Identify where reviewer can find more detail.

Subsequent paragraphs summarize the results of the studies:
List the resources by type and summarize the eligibility of the resources.

For eligible properties, include the eligibility criteria, level, and period of significance, and date of listing or determination if previously evaluated.

There is only one historical resource within the PAL:

- Blank Page Arrastra, Sweetbriar vicinity; **listed in the National Register** of Historic Places (NRHP) on December 1, 1976 at the **local level** of significance under **Criterion C as the last known remaining arrastra in the county and under Criterion D for its potential to yield significant information about gold mining in the region; period of significance ca.1860-1904. This historical archaeological site is on the Master List of Historical Resources because it is listed in the NRHP (see attached National Register nomination).**

Initial Consultation and Finding of Adverse Effect

Pursuant to 5024 MOU Stipulation XIV.B, Caltrans District 14 telephoned your office that same day to inform you of the damage to the road and the arrastra and of the temporary shoring that occurred to prevent further slippage and to initiate consultation with your office regarding the effects to the Blank Page Arrastra. District 14 also emailed the Sawyer County Native Sons of the Gold West chapter and the Sawyer County Historical Society about the damage to and temporary protective measures taken to protect this Gold Rush-era site. Pursuant to 5024 MOU Stipulation X.C.2.b, Caltrans finds that the proposed emergency repairs will have an adverse effect on the Blank Page Arrastra. These **findings and mitigation measures to be implemented within the next 30 days are described in Section 8 of the enclosed HRCR and in Attachment 4.**

Under the 5024 MOU Caltrans (and under CEQA) Caltrans may combine the Finding of Adverse Effect with the Mitigation Measures to be implemented. No Memorandum of Agreement is required, but the HRCR attachments must provide evidence of legal commitment to the mitigation measures.

Clearly state findings for which you are requesting concurrence. In this case there is an adverse effect to a NRHP-listed historical archaeological site on the Master List. Clearly state the time frame for response. In this emergency, it is a shortened time frame.

Summary and Conclusion

Pursuant to **5024 MOU Stipulation XV.A**, Caltrans is requesting that SHPO concur with Caltrans' Finding of Adverse Effect for the emergency repairs. We look forward to **your response within 7 days of your receipt** of this submittal, in accordance with **5024 MOU Stipulation XV.A**.

We appreciate your continuing prompt assistance with this undertaking. If you need any additional information, please do not hesitate to contact **Ms. BEPSbranch Chiefname (phone: 916-555-5555; email: BEPSbranch.Chiefname [at] dot.ca.gov)** or Caltrans District 14 Archaeologist **Mr. Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson [at] dot.ca.gov)**.

Sincerely,

FIRSTNAME LASTNAME
Chief
Cultural Studies Office

Identify lead staff person for the project, and provide full contact info, and thank the SHPO for assistance.

Caltrans Cultural Studies Chief or higher position signs the letter. Include title and location.

List all submitted materials.

Enclosures: Finding of Adverse Effect for the State Route 75 Interchange Project in Sawyer County

c: Appropriate Branchchiefname – Office of Historic Preservation
Appropriate Reviewername – Office of Historic Preservation
BEPSbranch Chiefname– Caltrans Division of Environmental Analysis
(when state-owned resources are involved, per the PRC 5024 MOU)
Any Interested Parties and/or Tribes

-----**Insert page break here**-----

Copy other organizations as appropriate.

Blind Copy other Caltrans staff as appropriate.

bc: Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – SR 49

Although depicted here to illustrate potential recipients, such as other Caltrans staff, blind copy lines always go on separate page.

Do not send the "bc" page to the main addressee(s) or to external parties.

EXHIBIT 2.12: SAMPLE TRANSMITTAL LETTERS

Sample 6 — Memo to CSO: Finding of Adverse Effect to State-owned Historical Resource not on Master List (Fictional Example)

Use Caltrans Memorandum, not letterhead.

State of California

California State Transportation Agency

M e m o r a n d u m

*Serious drought
Help Save Water!*

Address memo to Cultural Studies Office Chief, who is legally responsible for approval of FAE for state-owned resources not on the Master List.

To: FIRSTNAME LASTNAME
Chief
Cultural Studies Office
Division of Environmental Analysis
Attention: BEPSBranch Chief Name

Date: August 4, 2015
File:
EA: 2400001966
14-SAW-45
Memorial Elm Trees

Attention line is to the Built Environment

PM 23.0/23.47

Initialed by District Environmental Branch Chief or higher, including title and location.

From: JACK DRAKE
Chief
East Region Environmental Management, Branch S5

Subject: FINDING OF ADVERSE EFFECT FOR REMOVAL OF DISEASED MEMORIAL ELM TREES ON STATE ROUTE 45, SAWYER COUNTY, CALIFORNIA.

Paragraph 1: State whether consultation is initial or continuing and, refer to the regulatory context of consultation (i.e., PRC 5024 MOU).

The California Department of Transportation (Caltrans) District 14 **is initiating consultation** with you regarding the removal of a significant portion of the State Route (SR) 45 Memorial Elms Tree Row near Hartford, Sawyer County between postmiles (PM) 23.0 and 23.47. This consultation is undertaken in accordance with the January 1, 2015 *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 (5024 MOU)*.

Paragraph 2: Identify submitted materials and explain their purpose.

Enclosed please find the **Historical Resources Compliance Report (HRCR)**, which summarizes identifies the Project Are Limits, past identification and evaluation efforts, the effect of the tree remove the state-owned historical resource, and mitigation measures to minimize adverse effects. Attached to the HRCR is the **1998 Determination of Eligibility** (1998 DOE) under Public Resources Code 5024 for the Caltrans-owned tree row and the **Finding of Adverse Effect** for this activity.

Paragraph 3: Summarize the scope and scale of the project.

In July 2015, Caltrans District 14 maintenance crews **discovered that 25 trees (50%) within the SR 45 right of way have been afflicted with Dutch Elm Tree Disease and are dead and dying. These trees need to be removed as quickly as possible due to the likelihood that the disease will quickly spread to other trees as well as the potential public safety hazard caused by the dead or dying trees.** While there is no cure for Dutch Elm Disease, the District 14 has treated the non-infected trees with an insecticide to kill bark beetles (which

spread the disease), and **will continue to monitor the trees over the next two months. If additional trees are found to have contracted the disease, they will likewise require removal.** The complete description of proposed work is on **page 1 of the HRCR.** The Project Area Limits (PAL) consists of the Caltrans right of way along SR 45 between PM 23.0 and 23.5, the description for which is located in **Attachment 3 of the Supp. HRCR.**

Identify where reviewer can find more detail.

Subsequent paragraphs summarize the results of the studies: List the resources by type and summarize the eligibility of the resources.

For listed, eligible and assumed eligible historical resources, include the eligibility criteria, level, and period of significance, and date of listing or determination and whether the resources previously were evaluated.

In July 1998, as part of a project to relinquish portions of SR 45 to Sawyer County, and under PRC 5024(b), Caltrans determined that the **Memorial Elm Trees is eligible for the National Register of Historic Places (NRHP) at the local level of significance under Criterion C, as a significant designed landscape feature and for their aesthetic qualities.** The trees were planted at the height of the California City Beautification movement of the 1920s. The tunnel effect created by the overhang of the elm branches continues to present a visual "gateway" to and from Hartford and the Sacramento River area. **The period of significance is 1926, the year the landscape was designed and planted, and the boundaries are the SR 45 right of way between PM 22.5 and 23.5.** SHPO concurred with this determination in July 1998, but the tree row is not listed in the Master List of Historical Resources because it was not evaluated under Section 106 of the National Historic Preservation Act, neither was it listed in the NRHP (see attached 1998 DOE). **Pursuant to 5024 MOU Stipulation VIII.C.5, Caltrans has concluded that this DOE is still valid.** Because the trees are only significant at the local level, **they do not meet the criteria for registration as a California Historical Landmark.**

Clearly state the items for which you are requesting CSO approval. In this case, concurrence is requested under the 5024 MOU for the state-owned property.

Pursuant to **5024 MOU Stipulation X.C.2.a, Caltrans District 14 requests your approval of the Finding of Adverse Effect (FAE)** for the removal of 25 trees within the boundaries for the Memorial Elm Trees. The **HRCR Section 8 and the Finding of Adverse Effect contain detailed descriptions of the mitigation plan and HRCR Section 9** provides supporting documentation for this finding. Proposed mitigation plans include removal of 25 dead and dying trees, monitoring the remaining trees for two months, replacing the trees on the non-levy side of the highway with more disease resistant trees that are similar will become similar in size, leafing pattern and shade capacity. Caltrans, however, cannot replace the trees on the levy side due to the potential to do structural damage to the levy to avoid adding trees to the clear zone. In part, as mitigation, District 14, in collaboration with a certified arborist, will develop a tree management plan for the remaining healthy trees within the Memorial Elm Trees boundaries following the *Secretary of the Interior's Treatment of Historic Properties*.

In accordance with **5024 MOU Stipulation V and Attachment 5.C, the HRCR and the Finding of Adverse Effect were reviewed and approved by Mary M. Albright** who meets the Professionally Qualified Staff (PQS) Standards in 5024 MOU Attachment 1 as a Principal Architectural Historian, and Radcliffe Emerson who meets the PQS Standards in 5024 MOU Attachment 1 as a Principal Investigator-Prehistoric Archaeology.

Cite the review time frame and relevant stipulation.

Identify lead staff person for the project, and provide full contact info.

List all submitted materials.

List Staff copied, including BEPS Branch Chief, staff contact named in memo, HRC and Environmental Coordinator.

District 14 **requests that you review the FAE and proposed mitigation plan within 30 days of your receipt** of this submittal, in accordance with 5024 MOU **Stipulation X.C.2.a.i.**

If you need any additional information, please do not hesitate to contact Caltrans District 14 Archaeologist **Radcliffe Emerson (phone: 555-555-5555; fax: 555-555-5550; e-mail: Radcliffe.Emerson@dot.ca.gov)**. Thank you for your assistance with this undertaking.

Attachment: Historical Resources Report for the Removal of Diseased Memorial Elm Trees, 1998 Determination of Eligibility for the Memorial Elm Trees, Finding of Adverse Effect

c: BEPSBranch Chiefname – Caltrans Division of Environmental Analysis
Mary M. Albright – D14 HRC
Radcliffe Emerson – D14
Amelia Peabody – Env. Coordinator
Env. Files – SR 45

Exhibit 2.13: Peer Review Guidelines for Cultural Resources Documents

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Exhibit 2.13: Peer Review Guidelines for Cultural Resources Documents

Review of cultural resources documents (studies, reports, findings of effect, and other types of documentation) for quality control is an essential part of the environmental process. The requirement for quality control review of environmental documents under CEQA/NEPA is described in the Division of Environmental Analysis (DEA) Chief's January 13, 2003 memo to District Environmental Directors, entitled "[Written Certification of Environmental Document Quality Control Reviews](#)." Under the Section 106 Programmatic Agreement (Section 106 PA), Caltrans as assigned by FHWA is responsible for quality control of cultural resources documents. Caltrans PQS who meet the appropriate requirements of [Section 106 PA Attachment 1](#) must peer review all documents prepared under the Section 106 PA.

In accordance with [Section 106 PA Stipulation XV](#), Caltrans will not transmit documentation prepared under the Section 106 PA to FHWA or SHPO until it has been reviewed and approved by Caltrans PQS.

Benefits of Conducting Peer Reviews

Conducting peer reviews of cultural resources studies, reports and documentation has been standard Caltrans policy for many years. Benefits include improving the quality of all levels of documentation, sharing information between authors and reviewers, promoting relative consistency in style and content, and avoiding delays caused by FHWA or SHPO raising questions or rejecting findings.

While no one enjoys receiving criticism, however constructive, few people can objectively critique their own work. Peer reviewers provide authors with a valuable service, offering suggestions to assist in producing a professionally sound, technically correct, clearly written final document. Reviews can identify problems at a stage when the author can make changes and avoid later, more public criticism. Peer reviews clearly benefit both the process and the individuals involved.

Who Conducts Peer Reviews

Any appropriately qualified Caltrans PQS, either Headquarters or District staff, may conduct peer reviews of cultural studies prepared by coworkers or consultants. A professional in the same discipline as the author, at the same or higher PQS level or

equivalent, should conduct the primary peer review. Additionally, work completed by staff certified at the Co-Principal Investigator level must be reviewed by staff certified at the Principal Investigator level for the appropriate discipline, in accordance with Section 106 PA [Attachment 1](#). See [Chapter 2 Section 2.5.5](#) for more specific information on PQS who are certified to do peer reviews and reviews for approval.

Either District PQS, or upon request, Cultural Studies Office (CSO) PQS, may peer review documents. When CSO PQS are requested to conduct peer reviews, they will give them the highest priority in work assignments, completing reviews within 15 working days, preferably much less, of receiving the request. Districts may arrange routine reviews through the CSO Section 106/PA Coordination Branch Chief.

Submit requests for review through supervisors, not directly to peers, as reviews constitute work assignments.

In general, it is beneficial to have a variety of seasoned staff review the work of newer staff, to help them learn standard Caltrans procedures. It is also worthwhile for newer staff to seek reviews from staff in different offices for broader perspectives and to become familiar with the range of staff expertise available.

Authors sometimes are more comfortable requesting reviews by close colleagues who might be reluctant to criticize, who feel obliged to "support" them, or whose perspectives closely mirror their own, but such reviews may have limited usefulness. Reviewers who offer honest comments and different perspectives provide authors more of a service and a learning experience leading to better documents. Sometimes it is useful to request that professionals in other disciplines also review a work for potential pitfalls or red flags that could be a concern for review agencies.

Reviewers' Responsibilities

Reviewers must maintain professional objectivity and not allow personal feelings about the author, the project, or the resources to influence the tone or content of the review. At the same time, reviewers should not suspend professional standards to avoid offending someone. They are required to assert their professional judgment on any issue that may be critical to the acceptability of the document. Any criticism should be presented in a firm but helpful and respectful manner.

Reviewers should examine documents to determine:

- Does the document fulfill its intended purpose?
- Are the findings reasonable, backed by logic and supporting evidence, and presented clearly?
- Is the document adequate for review agency concurrence?

Peer reviewers should give these reviews a high priority and provide a prompt turnaround, 15 working days or less, unless requested otherwise.

Guiding Principles

Response memos should provide all *important* comments, both positive and negative, relating to the acceptability of the document, accuracy of content, and agreement with findings. Make a serious effort to recognize good work and offer genuine compliments that recognize positive aspects of the document. Comments will be more readily accepted when they are presented in a balanced review.

Present any suggestions for improvement in a friendly and constructive manner. Be extremely careful in the tone of the response memo, in the wording of any criticism and the context in which it is expressed. Avoid sarcasm, officiousness, personal criticisms, nitpicking, or imposition of personal style. It is never appropriate to challenge a peer's professionalism, intelligence, or standards. In general, phrase all comments courteously, with sensitivity and awareness as to how authors will receive them. Consider how you might react to the same comments. A peer antagonized may someday be in the position to return the favor.

Level of Comments

Carefully consider the level of comments, how detailed they need to be, taking into account the type of document, the resources or issues involved, the experience of the author, and whether prepared in-house or by a consultant.

Concentrate primarily on issues of substantial concern. Omit discussion of professional differences of opinion unless critical to the document's acceptability. Note any factual errors or loose ends and offer suggestions for improvement if needed. Mark minor comments, such as misspellings, typos, or grammatical errors, in the text only; the response memo might simply identify a need for more careful proofreading. Calling out repeated occurrences of minor errors page by page in the comment memo comes across as nagging.

On staff-authored documents, it can be useful to comment on clarity, format, and presentation, including correcting grammatical or spelling errors, knowing that these documents reflect on Caltrans as a whole. Constructive comments can help encourage staff toward long-term improvement.

Review consultant-prepared documents primarily to determine their adequacy for the purpose intended. Judge the findings for acceptability, whether they will accomplish the goal of compliance with the appropriate laws and regulations. The primary concern should be for identifying what have been called "fatal flaws," that is, elements that could cause reviewing agencies to reject the documents. Concentrate on such substantive comments, and keep minor, non-substantive comments separate, noting that they are simply suggestions for improvement. Imperfect consultant-prepared documents may be accepted without requiring changes to be made if document inadequacies can be addressed in the transmittal memo.

What to Look for as a Reviewer

In general, reviewers should keep the following questions in mind:

- Is the undertaking clearly described?
- Is the Area of Potential Effects (APE) adequately described, mapped, and justified?
- If a Study Area was used, is it distinguished from the APE?
- Are all ground-disturbing activities, including utility relocation, staging areas, etc., included in the Direct APE?
- Are all areas subject to indirect effects included in the Indirect APE?
- Are identification and survey efforts adequate?
- Are historic contexts adequately developed for evaluations?
- Are all evaluated properties shown on APE maps?
- For work done by consultants, are their qualifications provided?
- For work done by Caltrans staff, are their PQS levels specified and appropriate for actions taken under the Section 106 PA?

For each National Register eligible historic property, check to make sure the following elements are included:

- Criteria under which found eligible.
- Justification for eligibility.
- Level of significance.
- Period of significance.
- Contributing and non-contributing elements.

- National Register boundaries, both described in the text and shown on maps, including the APE map and the DPR 523 map.

For effect findings, be sure the following are included:

- Historic properties adequately described for understanding effects.
- Project effects described for each historic property.
- One effect finding given for the undertaking as a whole.
- Any special conditions such as ESAs adequately described to justify the effect finding.

[Exhibit 2.15](#) provides guidance on describing National Register eligibility and effect findings.

Format

Peer review comments should be written, to document the review findings, but the format can vary, depending on circumstances. If the original request was informal, handwritten notes or an informal memo may suffice; e-mail requests can usually be answered by e-mail; formal memos usually receive formal responses in memos signed by a branch or office chief.

Authors' Responsibilities

It is a mark of professionalism to be able to receive criticism graciously as much as it is to give it tactfully. Try to approach comments with an open mind, without getting defensive, recognizing that reviewers expend valuable time and effort in order to help the author. Their assistance is intended to lead to improvements; therefore, reviewers' suggestions should be taken seriously, and relevant comments should be incorporated.

In considering comments, it often can be helpful to meet with a reviewer if clarification is needed or in order to gain a better understanding of issues that were raised. Even a comment that misses the mark can reveal an unclear area needing correction, perhaps identifying a problem if not a solution. In any case, authors must strive to maintain objectivity and not allow personal feelings to influence reaction to comments or assessment of comments' validity.

Remember: peer review comments are advisory only. Authors bear the responsibility for evaluating comments honestly and for determining where changes need to be made. If a major disagreement regarding a document's ultimate acceptability cannot be resolved at

the staff level, refer the impasse to the respective supervisors. In the end, however, final responsibility remains with the authors and the authors' management.

Peer reviewers' names should be kept on record and comments retained in the project files. Transmittal memos also may name the peer reviewers. As peer reviewers offer advice only, however, and have no say over the final document, they should not be asked to sign the title page.

Conclusion

The purpose of cultural resource studies is Caltrans' compliance with federal and state laws and regulations. Reports and other documents are written to communicate findings on cultural resources in the project area clearly and compellingly to managers and review agencies. These efforts are not conducted to impress one's peers or to achieve personal or academic goals. Instead, they are intended to produce competent, professional documents that will be adequate for fulfilling compliance responsibilities. Peer reviews are an essential part of that process.

Exhibit 2.14: Historical Resources Compliance Report Format and Content Guide

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Exhibit 2.14:

Historical Resources Compliance Report Format and Content Guide

Caltrans uses the Historical Resources Compliance Report (HRCR) for projects and activities without federal involvement, as defined in [Chapter 2](#). The HRCR combines identification, evaluation, impact assessment, and mitigation into a single document.

Caltrans policy is to use the instructions outlined in the attachments to the Section 106 Programmatic Agreementⁱ (Section 106 PA) in defining professionally qualified staff (Section 106 PA [Attachment 1](#)), defining screened projects and activities (Section 106 PA [Attachment 2](#)), setting project area limits (Section 106 PA [Attachment 3](#)), defining resources exempt from evaluation (Section 106 PA [Attachment 4](#)), establishing Environmentally Sensitive Areas (Section 106 PA [Attachment 5](#)) and developing data recovery plans (Section 106 PA [Attachment 6](#)).

For State-owned cultural resources, Caltrans policy is to use the instructions outlined in the attachments to the Public Resources Code (PRC) 5024 Memorandum of Understanding (5024 MOU)ⁱⁱ in defining professionally qualified staff (5024 MOU [Attachment 1](#)), defining screened projects and activities (5024 MOU [Attachment 2](#)), setting project area limits (5024 MOU [Attachment 3](#)), defining resources exempt from evaluation (5024 MOU [Attachment 4](#)), establishing Environmentally Sensitive Areas (5024 MOU [Attachment 5](#)) and developing data recovery plans with standard mitigation measures for State-owned archaeological sites (5024 MOU [Attachment 6](#)). For more information on these procedures refer to [Chapter 2 Section 2.8](#).

General HRCR Format

The HRCR either may follow a narrative format or the “form” format. Both the HRCR narrative and form templates are available in electronic format through the

ⁱ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

ⁱⁱ *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*, effective January 1, 2015.

Caltrans Headquarters Division of Environmental Analysis (DEA) Cultural Studies Office (CSO) and on-line at the DEA *Standard Environmental Reference* Volume 2-Cultural Resources ([SERv2](#)) website. Depending on the size and nature of a project, use either a narrative HRCR or the “HRCR form” described in the “[HRCR Form](#)” section of this exhibit.

The HRCR form is used when the project is simple, small in scope has few cultural resources, or there are no properties within the Project Area Limits. If a project is large, complex or controversial or has a large number of cultural resources, the narrative HRCR format is used instead of the HRCR form.

Whichever format is used, be sure to include the following information as necessary in the appropriate HRCR.

Title Page

The title page identifies the Caltrans project by:

- Name and type of investigation
- County, route and post-mile(s)
- Unit, E-FISⁱⁱⁱ project number and phase

The page also includes

- Name, title, location and signature of the Caltrans Branch Chief (EBC) for whom the report was prepared. The EBC’s signature on the title page indicates approval and acceptance of the document
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepares the report, along with his/her address
- Name, title and signature of the Caltrans Professionally Qualified Staff (PQS) who reviews the report for approval, along with his/her address

NARRATIVE HRCR FORMAT

- Title page
- Summary of Findings (*not included on short form*)
- Project Description
- Consulting Parties and Public Participation
- Summary of Identification Efforts
- Exempt from Evaluation / No CEQA Resources Identified
- CEQA Historical Resources Identified
- CEQA Impact Findings
- Mitigation Plan
- Findings for State-owned Cultural Resources
- Attachments
- Maps
- DPR 523 Forms
- Other Attachments

Don’t forget the transmittal letter to CSO and/or SHPO for state-owned resources.

ⁱⁱⁱ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- Month and year HRCR was prepared (appears at bottom of page) If a consultant PQS prepares the HRCR, the project contract number should appear below the E-FIS project number.

If the HRCR form is used the title page is not necessary. The signatures appear at the end of the form.

Summary of Findings

In narrative format, this section contains all the information necessary for a casual reader to understand the intent, methods and results of the study. The HRCR form does not include this section. The summary includes:

- A concise description (abstract) of the proposed project or activity
- Purpose and scope of the investigation
- Results of the investigation
- Dates of fieldwork
- Statement regarding the number of cultural resources within the Project Area Limits (PAL) that were examined and whether each appears eligible for the National Register of Historic Places (NRHP) or is a historical resource for purposes of CEQA
- If there are state-owned resources within the PAL, a statement providing notice and summary to, or requesting comments from the State Historic Preservation Officer's (SHPO) under the relevant stipulations of the 5024 MOU. See Chapter 2, [Section 2.8](#) for details.

If there are historical resources, this section needs to include a concise summary paragraph for *each* eligible resource that includes

- The name and location of the resource
- Applicable criteria
- Period and level of significance
- Verbal description of the historical resource boundaries

A Summary of Findings section is not necessary when the HRCR form is used because the findings are summarized on the form in Sections 6 through 9, as appropriate.

Project or Activity Description and Location

Included in this section is a discussion of the nature and scope of the project or activity:

- Scope of the proposed work, including project components (left-turn lane widening, addition of passing lane, the need for new right-of-way, rehabilitation, maintenance, new additions, transfer out of Caltrans ownership, etc.)
- Environment, including whether the project lies in an urban or rural area
- Nature and purpose of the study relative to state regulations
- Citation of all pertinent maps (Project Vicinity, Project Location, PAL, etc.)

For highway projects details of the proposed project should be limited to the major design features.

Project Area Limits

Identify the Caltrans PQS staff and the project manager who delineated and signed the Project Area Limits (PAL) map. Describe the limits and provide a brief description as to how the boundaries were established. Attach the signed PAL map delineating the project area limits.

Consulting Parties and Public Participation

Summarize coordination efforts and public comments received to date. If the project is simple, limit these to contacts (including form letter notifications) with local historical societies, Native Americans, governments, or other interest groups. For projects involving Negative Declarations (ND) and Environmental Impact Reports (EIR) public involvement may include map displays or public hearings. Describe CEQA public involvement events that are expected as well as those that have occurred.

Summary of Identification Efforts

Include inventories, facilities, and persons consulted: at a minimum, the following:

- National Register of Historic Places and updates;
- California Register of Historical Resources;
- California Inventory of Historic Resources;
- California Historical Landmarks;
- The appropriate Information Center of the California Historical Resources Information System.

Note any other sources (human or archival) used, such as county assessors records, historical society or museum archives, interviews or oral histories taken from property owners or old-timers, etc. Describe the results of the research.

Exempt From Evaluation / No CEQA Historical Resources Identified

Do not list resources that meet the criteria for Section 106 PA [Attachment 4](#) (Properties Exempt from Evaluation); instead use the paragraph listed below. List the cultural resources that were identified within the PAL that are no exempt from evaluation, and provide pertinent information for each of them. Include concise but sufficient background and contextual information about the area within which the project is located so that the reader can understand the lack of significance of the evaluated resources. Use the format outlined in the [Format for list of resources in the HRCR](#) section below. If evaluated resources are state-owned, consultation with SHPO is required; see [SHPO Review of HRCR for State-owned Resources](#).

If the Keeper of the National Register previously determined, or SHPO previously concurred, that a resource is not eligible for listing in the NRHP, attach the Keeper or SHPO letter. For Category 5 bridges, attach the appropriate Caltrans Historic Bridge Inventory sheets.

If using the HRCR form, check the applicable boxes; include the required information and delete the statements that do not apply.

Complete this section when one or more of the following applies:

- Not applicable.
- There are no cultural resources in the Project Area Limits.
- Do not list resources that meet the criteria for Section 106 PA [Attachment 4](#) (Properties Exempt from Evaluation). Instead include the appropriate paragraph, or check the appropriate box(es) on the HRCR form, as follows:
Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement (Section 106 PA) Attachment 1 as a(n) [Indicate applicable PQS level, i.e., Co-Principal Investigator in prehistoric or historical archaeology, Architectural Historian or Principal Architectural Historian], has determined that the only/other cultural resources in the Project Area Limits are exempt from evaluation because they meet the criteria set forth in the Section 106 Programmatic Agreement (Section 106 PA) Attachment 4 (Properties Exempt from Evaluation) and, pursuant to PRC 15064.5(a), are not historical resources for purposes CEQA be-

cause they do not meet any of the California Register of Historical Resources criteria as outlined in PRC sections 5024.1. *See Section 106 PA [Attachment 4 for Resources Exempt from Evaluation](#) more information.* For reporting State-owned cultural resources that are exempt from evaluation see the [State-owned Cultural Resources Findings](#) section below.]

- The following bridges listed as Category 5 in the Caltrans Historic Highway Bridge Inventory & updates, do not meet the California Register criteria, and are not locally designated or otherwise identified as significant in a local survey meeting Office of Historic Preservation standards. Appropriate pages from the Caltrans Historic Bridge Inventory are attached. *[This assumes that the Caltrans PQS has determined the bridge also is not a historical resource for purposes of CEQA.]*
- The following resource(s) within the Project Area limits previously were determined not eligible for inclusion in the National Register of Historic Places, previously determined not to meet California Register of Historical Resources eligibility criteria, and/or previously determined not to be historical resource(s) for purposes of CEQA pursuant to PRC 15064.5(a) and the determination(s) is/are still valid. *(Include date of determination; identified State-owned cultural resources as such).*
- Caltrans evaluated the following resource(s) within the Project Area limits and has determined that pursuant to PRC 15064.5(a) they are not historical resource(s) for purposes of CEQA because they do not meet the California Register of Historical Resources criteria outlined in PRC 5024.1.

CEQA Historical Resources Identified

Caltrans PQS or qualified consultants may prepare either the HRCR form or prepare a narrative version when there are cultural resources within the Project Area that: need evaluation [whether or not meet California Register or, for state-owned resources, NRHP or California Historical Landmark (CHL) criteria]; or were previously identified as historic through CEQA, PRC 5024 or Section 106 processes.

If the project or activity is large or complex, the project area contains a large number of resources, or the proposed project is controversial, a narrative HRCR format should be prepared instead of using the form version.

List of Identified Historical Resources

List the cultural resources that were identified within the Project Area, and provide pertinent information for each of them. Include concise but sufficient background and contextual information about the project area so that the reader can understand

the significance of the evaluated resources. Use the format described in [Format for list of resources in the HRCR](#). Be sure to include summary information about NRHP eligibility and why it is a historical resource under CEQA.

One or more of the following findings may apply. Include, as appropriate:

- Not applicable.
- The following resource(s) within the Project Area limits previously were listed or determined eligible for inclusion in the National Register of Historic Places, previously determined to meet California Register of Historical Resources eligibility criteria, and/or previously determined to be historical resource(s) for purposes of CEQA pursuant to PRC 15064.5(a) and the determination(s) is/are still valid^{iv}. *(Include date of listing or determination).*
- Caltrans has determined that the following archaeological site(s) within the Project Area Limits are considered eligible for inclusion in the National Register of Historic Places and/or the California Register of Historical Resources. Pursuant to PRC 15064.5(a), they are historical resources purposes of CEQA for this project only without conducting subsurface testing or surface collection, because an Environmentally Sensitive Area (ESA) will be established to protect the site(s) from any potential effects. See attached documentation.
- Caltrans has determined that the following resources within the Project Area Limits are considered eligible for inclusion in the National Register of Historic Places and/or the California Register of Historical Resources. Pursuant to PRC 15064.5(a), they are historical resources purposes of CEQA for this project only because evaluation was not possible. See attached documentation. ***(Requires CSO approval prior to completion of the HRCR.)***
- Caltrans, as the lead agency pursuant to PRC 15064.5(a), evaluated the following resource(s) within the Project Area limits and determined that they do *not* meet National Register of Historic Places criteria but *are* historical resource(s) for purposes of CEQA because they: are listed in the California Register of Historical Resources or were determined eligible for the California Register of Historical Resources by the State Historical Resources Commission; are included in a local register; were identified as significant in a local survey meeting Office of Historic Preservation standards; or Caltrans, as the lead agency, determined they meet the criteria for listing in the California Register of Historical Resources.^v

^{iv} See PRC 15064.5(a)(1).

^v See PRC 15064.5(a)(1) - (4).

- Caltrans, as the lead agency pursuant to PRC 15064.5(a), evaluated the following resource(s) within the Project Area limits and determined that they meet National Register of Historic Places and the California Register of Historical Resources criteria and are historical resource(s) for purposes of CEQA^{vi}. (*Provide a brief summary of why the resource is significant, as outlined below.*)

Format for list of resources in the HRCR

To facilitate entry into computerized inventories, the identifying information for each resource needs to follow a specific format that includes the name of a property (if there is one), location, the community within which the resources is located (or the nearest community), the OHP historical resource status code if available, and the Map Reference number that is keyed to the Project Area map. For example:

The following resources meet the criteria for inclusion in National Register of Historic Places and are historical resources under CEQA:

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Smith House	451 Main St.	Anywhere, CA	2	(MR #1)
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	2	(MR #5)

None of the following resources meet the criteria for inclusion in the National Register and are not historical resources under CEQA:

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Able's Prune Packing Plant	35 E. Canterbury St.	Someplace, CA	6	(MR #1)
Melville Apts.	8012 S. Oceanview Dr.	Someplace, CA	6	(MR #5)
Little River RR Viaduct	Along SR 43, KP 10.7	El Nido, CA	6	(MR #18)

The following State-owned buildings and structures meet the criteria for inclusion in the National Register and need to be included in the Master List of Historical Resources:

Name	Address/Location	Community	OHP Status	
			Code	Map Ref. #
Edelberg House	496 Main St.	Anywhere, CA	4	(MR #25)
Summit Maintenance Stn	10099 Highway 4	Anywhere (vic.), CA	4	(MR #6)

^{vi} See PRC 15064.5(a)(3) – (4).

Repeat for resources that are historical resources for the purposes of CEQA and those that are not historical resources for purposes of CEQA because they do not meet the California Register criteria.

Provide the site trinomial (e.g., CA-Tri-433) for each archaeological site covered in the document. Temporary numbers are not acceptable.

The [OHP Historical Resource Status Codes](#) (OHP Technical Assistance Bulletin #8) provides the array of status codes and their extensions. For example “1S” means a historic property individually listed in the National Register and also listed in the California Register, while “1CS” means a property individually listed in the California Register only. Status code “4” applies only to state-owned resources that are included in the Master List through the PRC 5024 compliance process.

Provide a *brief* summary of eligible cultural resource that includes:

- Historic and/or common name and map reference number. Add the bridge number if the resource is a bridge or the trinomial if the resource is an archaeological site.
- Address or location (unless it is an archaeological site for which the location is confidential)
- Applicable National Register and California Register criteria with a phrase that describes how the resource meets the identified criteria. If the resource also is a National Register criteria consideration or California Register criteria consideration, include the appropriate “consideration” letter or number.
- Period of significance
- Level of Significance (local, state, national)
- Rough boundary descriptions
- Contributing and noncontributing elements

If the Keeper previously determined a property to be eligible for inclusion in the NRHP or SHPO previously concurred on NRHP eligibility, attach the Keeper or SHPO letter. Appropriate technical studies (ASR, HRER, Caltrans Historic Bridge Inventory sheet, etc.) need to be attached to the HRCR.

If using the HRCR form, check the applicable boxes include the required information and delete the statements that do not apply.

CEQA Considerations

For each cultural resource determined to be a historical resource under CEQA, describe the potential impact of the project on the resource. Quantify physical impacts to the extent possible. The appropriate Caltrans or consultant PQS should prepare the analysis and the Caltrans district PQS conveys the results to the district staff person responsible for the CEQA documentation. See Section 106 PA [Attachment 1](#), and [Chapter 1 Sections 1.3.3](#) and [1.3.4](#). The federal Criteria of Adverse Effect ([36 CFR 800.5](#)) provides useful guidance for categorizing the impact of the project on historical resources. See also [Chapters 2](#) and [7](#) for discussions of impacts to historical resources.

State whether the impacts could result in no substantial adverse change to historical resources, or could be mitigated to a level of less than significant [[PRC 15064.5\(b\)\(3\)](#)] by using the *Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings* ([Standards](#)).

To ensure these activities are consistent with these standards, they must be reviewed by, or under the direct supervision of, a Principal Architectural Historian who has the requisite education and experience as outlined in [Chapter 1 Section 1.3.3](#) and Section 106 PA Attachment 1 under [Principal Architectural Historian](#).

One or more of the following CEQA Considerations may be applicable to the project and may be included in this section:

- Not applicable; Caltrans is not the lead agency under CEQA.
- Caltrans PQS staff has determined there are no historical resources within the Project Area limits, as outlined in CEQA Guidelines 15064.5(a).
- Caltrans PQS staff has determined that the following resources previously were determined not to meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), that the prior determination remains valid, and they are not historical resources for purposes of CEQA.
- Caltrans PQS staff evaluated and determined that the following resources do not meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), and are not historical resources for purposes of CEQA.
- Caltrans PQS staff evaluated and that the following resources do *not* meet National Register of Historic Places criteria but *are* historical resources for purposes of

- CEQA because they: are listed in the California Register of Historical Resources or were determined eligible by the State Historical Resources Commission-[PRC 15064.5(a)(1)], are included in a local register or identified as significant in a local survey meeting OHP standards [PRC 15064.5(2)], or Caltrans, as the lead agency, has determined that they meet the criteria for listing in the California Register of Historical Resources [PRC 15064.5(a)(3) - (4)]:
- Caltrans PQS staff, pursuant to PRC 15064.5(b), has determined there is no impact^{vii} to the following historical resources within the Project Area limits. *(Explain why or indicate the title of the HPSR attachment that contains the description.)*
 - Caltrans PQS staff, pursuant to PRC 15064.5(b), has determined for following historical resources, there is no substantial adverse change - ESAs, because the impacts to the following historical resources within the Project Area limits will be avoided through the establishment of Environmentally Sensitive Areas (ESA), enforcement measures and conditions that are included in the attached documentation. *[Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) [Indicate applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [Include all restrictions on activities within the ESA, describe how the restrictions will be enforced (e.g., by placing the restrictions in the PS&E, fencing, monitoring construction, etc.), and include the name and appropriate PQS level of the Caltrans PQS who reviewed the ESA plan. Or, attach the ESA Action Plan, as appropriate. Include any other relevant information to support the proposed finding.]*
 - Caltrans PQS staff pursuant to PRC 15064.5(b)(3), has determined that for the following historical resources within the Project Area Limits there is no substantial adverse change – *[Specify all that are appropriate, don't include terms that are not applicable: **rehabilitation / repair / maintenance / direct or indirect alteration / transfer with protective easements, covenants and/or agreements** because the proposed work that affects these historical resource(s) will be completed in a manner consistent with / will be mitigated below the level of significant impact by using [Specify one of the two preceding actions, delete the other; they are different under CEQA; the first can lead to a Class 31 CE; the second fulfills PRC 15064.5(b)(3)] the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (Standards). [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1*

^{vii} See PRC 15064.5(b)(3).

as a [Indicate applicable PQS level: Principal Architectural Historian or Principal Investigator], and has the appropriate education and experience, has reviewed the documentation and determined that the measures meets the *Standards*. [Name and applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [Include a brief description of work ESAs or indicate the title of the HPSR attachment that contains the description; attach SOIS Action Plan (see Exhibit 7.5), draft covenants or easements as appropriate.]

- Caltrans PQS staff, pursuant to PRC 15064.5(b)(2), has determined there is a substantial adverse change to historical resource(s) within the Project Area because the project will cause adverse change to the following historical resource(s) and has identified measures to avoid or mitigate these changes. See Mitigation Plan below and attached documentation.

Mitigation Plan

In this section, appropriate Caltrans or consultant PQS preparing the HRCR needs to describe the mitigation that is planned to offset project impacts on each historical resource, including archaeological sites, historical non-structural historic sites, landscapes, buildings, structures, objects and districts. For archaeological sites, summarize the data recovery to be performed. When mitigation plans are not yet complete, describe a range of suitable mitigation options (e.g., moving or demolishing structure), from which final mitigation will be selected.

For state-owned historical resources, Caltrans PQS needs to include proposed measures that are prudent and feasible and that would avoid or mitigate adverse effects to those resources.^{viii} If there is no prudent and feasible alternative, provide justification that details why this is the case. Indicate the level of consultation with the State Historical Building Safety Board, in applying the California State Historical Building Code to reduce impacts to the resource(s), as well as the outcome of the consultation.

One or more of the following conditions may be applicable to the project and may be included in this section:

- Not applicable.
- Proposed mitigation for the following archaeological resources includes...
- Proposed mitigation for the following built-environment resources includes...

^{viii} PRC 5024 uses the term “effect” while CEQA uses the term “impact”

- Proposed mitigation for the following landscapes / non-structural resources includes...

State-Owned Cultural Resources Findings

When there are state-owned cultural resources in the PAL, Caltrans needs to document compliance with PRC 5024 by using the stipulations and attachments in the [5024 MOU](#). However, when the project also is a federal undertaking, pursuant to 5024 MOU Stipulation III, "...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." See [Exhibit 2.6](#) for more information on documenting findings for state-owned resources involved in a federal undertaking.

For state-only projects and activities, the HRCR documents all the findings that affect State-owned cultural resources. Determinations of eligibility and effect findings may be combined in one HRCR. Depending on the findings for State-owned cultural resources the HRCR may go only to the District file, to SHPO, concurrently to SHPO and CSO or only to CSO, as described below. While review times for concurrent submittals to CSO and SHPO run concurrently, when SHPO review times for determinations of eligibility and effect findings run sequentially. That is, when an HRCR is submitted to SHPO for a determination of eligibility and to CSO for a finding of no adverse effect with standard conditions, the start date for review for both SHPO and CSO begins when they receive the documentation. However, if an HRCR contains both a determination of eligibility for an NRHP-eligible State-owned building and finding of adverse effect the same building, SHPO's review time for the finding of adverse effect begins after SHPO has made a determination of eligibility.

HRCR to District File

Under the 5024 MOU stipulations the following findings may be documented to the Caltrans District file, with summary and notification to the SHPO on a quarterly or annual basis:

- Not applicable; project does not involve Caltrans right-of-way or Caltrans-owned property. *(Leave this heading in the HRCR and state whether or not it is applicable; do not delete the heading. Caltrans does not need to consult with SHPO under PRC 5024.)*
- [\[Name\]](#), [\[Indicate whether person is Caltrans or consultant architectural historian or archaeologist\]](#), who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [\[Indicate](#)

applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the PAL that are exempt from evaluation because they meet the criteria for Resource Types 1 and/or 2, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation).

- [Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the PAL that are exempt from evaluation because they meet the criteria for Resource Types 3 through 7, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation). The following state-owned cultural resource type(s) have been recorded pursuant to Stipulation VIII.C.1: [List each resource(s) by address and include the resource type, i.e. resource type 3,4,5,6,7 or a combination thereof.]
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.5, has determined that the following State-owned cultural resources within the PAL previously were determined not eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmarks and that determination is still valid. [List the resource(s) including address or locational information]
- Caltrans has determined that the following State-owned historical resource(s) within the PAL previously were determined eligible for inclusion in the National Register of Historic Places/California Historical Landmarks but are not included in the Master List of Historical Resources, and that determination is still valid. [Include date of determination, listing, applicable eligibility criteria, period and level of significance.]
- Caltrans has determined that the following State-owned historical resources within the PAL previously were included in the Master List of Historical Resources, and that status is still valid. [Include date of determination, listing, applicable eligibility criteria, period and level of significance.]
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.3, has determined that the following State-owned archaeological site(s)

- within the PAL is/are considered eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmark(s) for the purposes of this project only because the site(s) will be protected through the establishment of ESA(s). [List the site(s)]
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.A.2, has determined that a Finding of No State-owned Historical Resources Affected is appropriate because there are no State-owned Historical Resources within the PAL/the following State-owned Historical Resource(s) are within the PAL but the project/activity will have no effect on it/them [List the resource(s) and state whether or not they are on the Master List.]
 - Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the PAL that will be affected by the project/activity. In accordance with PRC 5024 Memorandum of Understanding Stipulations III and X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

HRCR to SHPO

Determinations of eligibility may be transmitted directly to SHPO when one or more of the following findings apply:

- Not applicable. *(Leave this heading in the HRCR and state whether or not it is applicable; do not delete the heading. This finding does not need to be sent to SHPO.)*
- Caltrans has evaluated and concluded that the following State-owned cultural resources within the Project Area Limits do NOT meet National Register of Historic Places and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination. *(List the resource(s) including address or locational information. If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.)*
- Caltrans has evaluated and determined that the following State-owned archaeological sites, landscapes, non-structural resources within the Project Area Limits that meet the National Register of Historic Places criteria and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination. *(List the resource(s) including address or locational information. If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.)*

- Caltrans has evaluated and determined that the following State-owned buildings, structures, objects and districts within the Project Area Limits meet National Register of Historic Places and/or the California Historical Landmarks eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO's concurrence in this determination; pursuant to PRC 5024(d), Caltrans requests that SHPO add these resources to the Master List of Historical Resources. *(List the resource(s) including address or locational information; explain whether they are NRHP or CHL eligible; and state the criteria, level of significance and period of significance If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.)*
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the PAL that will be affected by the project/activity. In accordance with PRC 5024 Memorandum of Understanding Stipulation X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

HRCR to CSO

All effect findings, with the exception of “No State-owned Historical Resources Affected,” are transmitted to CSO. When the finding is “No Adverse Effect with Standard Conditions,” (FNAE-SC), CSO reviews the finding. However, depending on whether a historical resource is on the Master List of Historical Resources (Master List; see 5024 [MOU Stipulation IV.E](#) for definition), either CSO or SHPO reviews the finding. With the exception of the FNAE-SC for state-owned cultural resources on the Master List, CSO reviews all no adverse effects without standard conditions and adverse effects for State-owned historical resources that are not on the Master List. CSO forwards to SHPO for review all no adverse effects without standard conditions and adverse effects for State-owned historical resources on the Master List. One or more of the following findings may apply:

- Not applicable. *(Leave this heading in the HRCR and state whether or not it is applicable; do not delete the heading. This finding does not need to be sent to SHPO.)*
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.4, has determined that the following State-owned cultural resources within the PAL are considered eligible for inclusion in the National Register of Historic Places or for registration as a California Historical Landmark(s) for the purposes of this project only because evaluation was not possible. [\[List the resource\(s\) by](#)

name, address or locational information, the criterion under which the resource(s) considered eligible and the level and period of significance.]

- Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.a, and Attachment 5, Caltrans has determined a Finding of No Adverse Effect with Standard Conditions - ESA, is appropriate because the following State-owned historical resource(s)—which have been determined eligible for or are listed in the National Register of Historic Place or for are eligible or are register as California Historical Landmark(s) — will be protected through the establishment of ESA(s) as described above in Section 8 HPSR to CSO. Caltrans is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Investigator-Prehistoric Archaeology / Principal Investigator Historical Archaeology / Principal Architectural Historian [List applicable discipline(s):] has reviewed the documentation and determined that the proposed ESA is appropriate. [List the site(s) and whether they are on the Master List.]
- Caltrans, in accordance with PRC 5024 Memorandum of Understanding Stipulation X.B.1.b. and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – SOIS is appropriate for this project/activity because the proposed work on following State-owned historical resources(s)—which have been determined eligible for or are listed in the National Register of Historic Places/as a California Historical Landmark(s), meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties. Caltrans is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Architectural Historian has reviewed the documentation and determined that the proposed work meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties. [List the property(ies) and whether they are on the Master List, and include description of work below or indicate below the title of the HRCR attachment that contains the description; attach SOIS Action Plan.]
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.c. and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – CLG Designation is appropriate for this transfer/relinquishment [choose one and delete the other] because the following State-owned historical resources(s) already have been designated by a Certified Local Government, under its preservation ordinance. Caltrans is hereby notifying CSO

of this finding and has attached a copy of the document by which the historical resource(s) was/were designated. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Architectural Historian has reviewed the preservation ordinance and determined that it substantially meets the protective measures stipulated in PRC 5024. [List the resource(s) and address, indicate whether they are on the Master List and include the name of the CLG and the HRCR attachment that contains the 1 copy of the local government designation.]

- Caltrans has determined that the project/activity will have no adverse effect on following State-owned historical resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the protective measures and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.2.a, Caltrans has determined a Finding of No Adverse Effect, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and Include description of proposed measures, conservation easements, protective covenants, etc., below or indicate below, which HRCR attachment contains the description.]
- Caltrans has determined that the project/activity will have an adverse effect on following National Register and/or California Historical Landmark-eligible State-owned archaeological resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and in the attached Data Recovery Plan-Standard Mitigation Measures determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.C.1.a and Attachment 6, Caltrans has determined a Finding of Adverse Effect-SMM, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and indicate below, which HRCR attachment contains the full description.]

- Caltrans has determined that the project/activity will have an adverse effect on following State-owned historical resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 50234 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.C.2, Caltrans has determined a Finding of Adverse Effect, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and indicate below, which HRCR attachment contains the full description.]
- Caltrans has determined that the project/activity will have no adverse effect on following State-owned historical resources within the PAL that are on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the protective measures and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulations X.B.2.c and X.D, Caltrans has determined a Finding of No Adverse Effect, is appropriate, is hereby notifying CSO and requests SHPO's concurrent concurrence with this finding. [List the resource(s) including address or locational information and Include description of proposed measures, conservation easements, protective covenants, etc., below or indicate below, which HRCR attachment contains the description.]
- Caltrans has determined that the project/activity will have an adverse effect on following State-owned historical resources within the PAL that are on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulations X.C.2 and X.D, Caltrans has determined a Finding of Adverse Effect, is appropriate, is hereby notifying CSO and requests SHPO's concurrent concurrence with this finding. [List the resource(s) including address

or locational information and indicate below, which HRCR attachment contains the full description.]

- For State-owned qualified historical buildings, and other State-owned historical resources within the PAL, Caltrans has applied the California Historical Building Code (CHBC) to relevant sections of the current code(s) and/or standards and, if applicable, has consulted with the California Historical Building Safety Board (SHBSB) through its Executive Director pursuant to Health and Safety Code Section 18961 and its implementing regulations at California Code of Regulations Title 24 Part 8 Section 8-103.2.[Indicate below whether use of current code(s) and standards adversely affected character-defining features of the property and describe the alternative solutions under the CHBC, or indicate below which HRCR attachment contains the description. If applicable, attach copies of correspondence with the SHBSB or its Executive Director.]

List of Attached Documentation

Include, at minimum, the Project

- Location map
- Vicinity map
- PAL map

Include the following as applicable, and provide the attachment number/location:

- California Historic Bridge Inventory sheet
- Historical Resources Evaluation Report (HRER)
- Archaeological Survey Report (ASR)
- Archaeological Evaluation Report (CARIDAP, XPI, PII, PIII)
- Environmentally Sensitive Area (ESA) Action Plan
- Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS) Action Plan
- Other (Specify below)

The PAL map should illustrate the proposed project, upon which the Project Area limits have been delineated. If no cultural resources are present the PAL map needs to be of sufficient scale to document the PAL.

If cultural resources are present, the PAL map needs to be of sufficient scale (200' scale is preferred) and have enough project detail to demonstrate the relationship of historic properties to the proposed project. This is especially important because the

HRCR also serves as the mitigation document for the project. Clearly show the PAL, the location of all discussed resources, the boundaries of any eligible or listed historical resources, and the boundaries of any ESAs used. Include a scale and north arrow.

a) Photographs and Other Exhibits

Include other appropriate exhibits. Good clear exhibits and graphics are invaluable to demonstrate the arguments and decisions discussed made in the text.

Photos and graphics that illustrate the following can enhance the HRCR's effectiveness as a consultation tool:

- Integrity (or lack thereof) of cultural resource(s)
- Integrity of setting for cultural resource(s),
- Engineering plans,
- Profiles and cross-sections that show the actual limits of project impacts.

b) Appendices

Include, as appropriate:

- Archaeological Survey Report, Extended Survey Report, Archaeological Evaluation Report
- Historical Resources Evaluation Report
- Bridge Evaluation or appropriate Caltrans Historic Bridge Inventory sheet
- Test Excavation Report
- ESA Action Plan
- SOIS Action Plan
- CLG designation information
- Data Recovery Plan (and for eligible State-owned archaeological sites not on the Master List include the Standard Mitigation Measures)
- Letters from historical societies, Native American groups, local governments, and other special interest groups, the SHPO, etc.

HRCR Preparation and Approvals

Caltrans PQS or a qualified consultant prepares the draft HRCR. Caltrans PQS in the appropriate disciplines need to peer review the draft HRCR. Prior to submitting the draft HRCR and attachments to Caltrans for review, it is advisable that consultants have their documents peer reviewed by someone who meets the Secretary of the Inte-

rior's Professional Qualification Standards in the discipline(s) that are appropriate to the cultural resources within the project area limits.

HRCRs need at least *three* reviews:

- Peer review of the draft HRCR by district or headquarters Cultural Studies Office (CSO) PQS, at the appropriate level for the contents of the HRCR
- Review of the final HRCR for EBC approval district or CSO PQS, at the appropriate level
- Review and approval of the final HRCR by the EBC

Prior to submitting the draft HRCR and attachments to Caltrans for review, it is advisable that consultants have their documents peer reviewed by someone who meets the [Secretary of the Interior's Professional Qualification Standards](#) in the discipline(s) that are appropriate to the cultural resources within the project area limits.

Because HRCRs are, in essence, summary documents, Caltrans PQS at the Lead Archaeological Surveyor or Architectural Historian level or above may peer review the draft HRCR, as well as review the final HRCR for approval by the lead EBC. However, *Caltrans PQS at the level appropriate to the type of cultural resources document must peer review and review for approve all attached documentation supporting CEQA conclusions and/or PRC 5024 findings* (e.g., ASRs, AERs, HRERs, etc.)

[Chapter 2 Section 2.5.5](#) explains the reasons for the specified levels of Caltrans PQS peer review, while [Exhibit 2.11 Table C](#) contains a chart with the various HRCRs findings and who is certified to conduct peer review and review for approval.

Peer reviewers follow the guidelines in [Exhibit 2.13: Guidelines for Peer Review of Cultural Resources Reports](#). Peer reviewers' names should be kept on record and comments retained in the project files. Once the HRCR has been peer reviewed and any revisions have been made, it is ready for approval.

After the draft HRCR has been peer reviewed and any necessary revisions are made, the Caltrans PQS or consultant who prepares the HRCR signs, dates the final HRCR and includes his/her discipline, PQS level (as applicable) and district/headquarters or affiliation. The Caltrans PQS reviewing the HRCR for approval likewise signs, dates, and includes his/her PQS discipline, level and district. If the Caltrans PQS document preparer is certified at the Lead Archaeological Surveyor or Architectural Historian level or above, his or her signature on the final document also signifies review for

EBC approval. The EBC signs and dates the HRCR to signify approval. For narrative HRCRs, these signatures need to be on the title page. For the HRCR form, the signature boxes in Section 11, at the end of the form, need to be completed.

The PQS preparer, the Caltrans PQS and EBC-approval signatures on the form complete the cultural resources portion of CEQA compliance. For State-owned cultural resources a copy of the HRCR to the District file completes the PRC 5024 compliance process and pursuant to 5024 MOU Stipulation XIX.E copies are sent to CSO either quarterly or annually. For HRCRs to SHPO or to CSO, the district PQS notifies and transmits a copy of the HRCR to the Built Environment Preservation Services (BEPS) Branch Chief in CSO. This is required to demonstrate compliance with PRC 5024. The notification and document may be transmitted electronically to the BEPS Chief.

A summary of the HRCR findings is included in the appropriate CEQA environmental documentation.

HRCR Narrative and Form Templates

In addition to the HRCR narrative template, Caltrans has developed an HRCR form template that may be used in conjunction with CEQA and using the 5024 MOU. For large or complex projects or those with a large number of cultural resources, the narrative HRCR is used and tabs may be used to guide reviewers to the various sections or attachments

The HRCR form is used only for simple, straight-forward projects; use of the form is optional.

The form is best used for simple projects and activities, such as:

- Projects/activities that are not large in scope,
- Projects/activities that do not contain a large number of evaluated resources, or
- Projects/activities for which no cultural resources are located within the PAL

The template appears to be very long because it contains the range of most commonly used statements with the appropriate language for each finding; *delete those that do not apply* for the reasons stated above. Sections 3 through 10 contain the most frequently used statements and conclusions. One or more statement in these sections may apply, depending on the project. *Delete statements that do not apply.*

Delete the instructions and irrelevant statements to shorten the HPSR, whether in form or narrative format.

To ensure consistency and to facilitate faster reviews of the HRCR, the headings may not be changed, and different versions of the document can be saved under a different name using the “Save As” command in Microsoft Word. If a section is not applicable, *the heading will remain* and the “Not Applicable” box may be checked or the narrative statement is retained. Deleting most of the instructions and irrelevant statements can shorten the form. Since the form is in a table format in Word, to delete the irrelevant lines:

- Highlight the row(s) of text or space to be deleted
- On the menu, click on Table (or its appropriate icon), then
- Click on “Delete,” and the lines should disappear

Annotated HRCR

Attached to this exhibit is an annotated HRCR that shows how the activities and conclusions described in the HRCR correlate to the CEQA and PRC 5024 regulations, and to the 5024 MOU for state-owned cultural resources. For the most part the annotations are in the right margin and are color coded to the applicable activity.

Abbreviations used in the annotations include:

CCR	California Code of Regulations
CCRD	Caltrans Cultural Resources Database
CEQA	California Environmental Quality Act
CSO	Cultural Studies Office
CT	Caltrans
DOEs	Determinations of Eligibility
DPR 523	Department of Parks and Recreation Series 523 inventory forms
EBC	Environmental Branch Chief
ESA	Environmentally Sensitive Area
FAE	Finding of Adverse Effect
FNAE	Finding of No Adverse Effect
Master List	Master List of Historical Resources
MOU	Public Resources Code 5024 Memorandum of Understanding
PRC	Public Resources Code
SC	Standard Conditions
Sec. 106	Section 106 of the National Historic Preservation Act, as amended
SERv2	Standard Environmental Reference Volume 2 – Cultural Resources
SMM	Standard Mitigation Measures
SOIS	Secretary of the Interior’s Standards for the Treatment of Historic Properties
Stip.	Stipulation(s)

Annotated HRCR

HISTORICAL RESOURCES COMPLIANCE REPORT

1. PROJECT / ACTIVITY DESCRIPTION AND LOCATION

District	County	Route	Post Miles	Unit	E-FIS Project Number	Phase

Project Description:

(Insert project description here; refer reader to location and vicinity maps in HRCR; delete this instruction line.)

SERV2
Chapter 2
Sec. 2.7
and PRC
5024 MOU
(MOU)
Stip. II for state-owned resources. Indicates that CT determined there is a project or activity with potential to affect historical resources.

2. PROJECT AREA LIMITS

The Project Area limits (PAL) for the project were established in consultation with _____ [name of Caltrans PQS], _____ [PQS discipline/level], and _____ [name of project manager / right of way agent / local assistance engineer], Project Manager/Local Assistance Engineer, on _____ [date]. The PAL maps are located _____ [specify technical study, figure or exhibit number] in this Historical Resources Compliance Report (HRCR).

The PAL was established as _____ [add brief description as to where and how boundaries were set; delete this instruction line.].

SERV2
Chapter 2
Sec. 2.73,
2.82 and
MOU Stip.
VIII.A and
Attach. 3.

3. CONSULTING PARTIES / PUBLIC PARTICIPATION

(For the following, check the appropriate line, list names, dates, and locations and results of contacts, as appropriate. List organizations/persons contacted and attach correspondence and summarize verbal comments received as appropriate. Delete this instruction lines.)

- Local Government (Head of local government, Preservation Office / Planning Department)
 -
- Native American Tribes, Groups and Individuals
 -
- Native American Heritage Commission
 -
- Local Historical Society / Historic Preservation Group (also if applicable, city archives, etc.)
 -
- Public Information Meetings (list locations, dates below and attach copies of notices)

CEQA and
MOU Stip.
VIII.C. 5 &
7; IX.A, X
and
XVII.C.
Seek info from interested parties, Native Americans, other with knowledge or interest.

HISTORICAL RESOURCES COMPLIANCE REPORT

(For the following, check the appropriate line, list names, dates, and locations and results of contacts, as appropriate. List organizations/persons contacted and attach correspondence and summarize verbal comments received as appropriate. Delete this instruction lines.)

-
- _ Other
-

4. SUMMARY OF IDENTIFICATION EFFORTS

- _ National Register of Historic Places
- _ California Register of Historical Resources
- _ California Inventory of Historic Resources
- _ California Historical Landmarks
- _ Archaeological Site Records [List names of Institutions & date below]
-
- _ Other sources consulted [e.g., historical societies, city archives, etc. List names and dates below]
-
- _ Results: (provide a brief summary of records search and research results, as well as inventory findings)
-
- _ California Points of Historical Interest
- _ California Historical Resources Information System (CHRIS)
- _ Caltrans Historic Highway Bridge Inventory
- _ Caltrans Cultural Resources Database (CCRD)

14 CCR 15064.5(a) and MOU Stip. VIII.B. & C. Identify historical resources.

HISTORICAL RESOURCES COMPLIANCE REPORT

5. EXEMPT FROM EVALUATION / NO CEQA HISTORICAL RESOURCES IDENTIFIED

(Check all that apply. Delete this instruction line and findings that are not applicable.)

- Not applicable.
- There are no cultural resources in the PAL.
- _____[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement (Section 106 PA) Attachment 1 as a(n) _____ [Indicate applicable PQS level], has determined that the only/other cultural resources in the PAL are exempt from evaluation because they meet the criteria set forth in the Section 106 Programmatic Agreement (Section 106 PA) Attachment 4 (Properties Exempt from Evaluation) and, pursuant to PRC 15064.5(a), are not historical resources for purposes CEQA because they do not meet any of the California Register of Historical Resources criteria as outlined in PRC sections 5024.1. [While it is not required, including a statement under this bullet that lists the identified exempted property type(s) can be helpful for the reader, and for those preparing studies for future projects, to know why certain cultural resources within the PAL were exempted from evaluation.]
- The following bridges listed as Category 5 in the Caltrans Historic Highway Bridge Inventory & updates, do not meet the California Register criteria, and are not locally designated or otherwise identified as significant in a local survey meeting Office of Historic Preservation standards. Appropriate pages from the Caltrans Historic Bridge Inventory are attached.
 -
- The following resource(s) within the PAL previously were determined not eligible for inclusion in the National Register of Historic Places, previously determined not to meet California Register of Historical Resources eligibility criteria, and/or previously determined not to be historical resource(s) for purposes of CEQA pursuant to PRC 15064.5(a) and the determination(s) is/are still valid. (include date of determination; identified State-owned cultural resources as such):
 -
- Caltrans evaluated the following resource(s) within the PAL and has determined that pursuant to PRC 15064.5(a) they are not historical resource(s) for purposes of CEQA because they do not meet the California Register of Historical Resources criteria outlined in PRC 5024.1:
 -

PRC 15064.5(a), PRC 5024(b). Caltrans uses Attachment 4 of the MOU for exempting cultural resources under CEQA and for exempting state-owned historical resources. Caltrans does not consult SHPO under CEQA.

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HISTORICAL RESOURCES COMPLIANCE REPORT

6. CEQA HISTORICAL RESOURCES IDENTIFIED

(Check the appropriate category, list resources, or refer reader to appropriate technical study attached, according to their National Register or CEQA status. Provide, as appropriate, complete address, period and level of significance, criteria, map reference, and any existing state or local designation, including date; identify State-owned resources as such. Do not include resources that are not within the PAL. Attach previous SHPO concurrence and determinations, as applicable. Delete his instruction line and findings that are not applicable.)

- Not applicable.
- The following resource(s) within the PAL previously were listed or determined eligible for inclusion in the National Register of Historic Places, previously determined to meet California Register of Historical Resources eligibility criteria, and/or previously determined to be historical resource(s) for purposes of CEQA pursuant to PRC 15064.5(a) and the determination(s) is/are still valid. (Include date of listing or determination; these also include tribal cultural resources as defined in PRC 21074.):
 -
 - Caltrans has determined that the following archaeological site(s) within the PAL are considered eligible for inclusion in the National Register of Historic Places and/or the California Register of Historical Resources. Pursuant to PRC 15064.5(a), they are historical resources purposes of CEQA for this project only without conducting subsurface testing or surface collection, because an Environmentally Sensitive Area (ESA) will be established to protect the site(s) from any potential effects. See attached documentation. [These also include tribal cultural resources as defined in PRC 21074.]
 -
 - Caltrans has determined that the following resources within the PAL are considered eligible for inclusion in the National Register of Historic Places and/or the California Register of Historical Resources. Pursuant to PRC 15064.5(a), they are historical resources purposes of CEQA for this project only because evaluation was not possible. See attached documentation. (Requires CSO approval prior to completion of the HRCR. These also include tribal cultural resources as defined in PRC 21074.)
 -
 - Caltrans, as the lead agency pursuant to PRC 15064.5(a), evaluated the following resource(s) within the PAL and determined that they do NOT meet National Register criteria but ARE historical resource(s) for purposes of CEQA because they: are listed in the California Register or were determined eligible

PRC 15064.5(a), Evaluate significance. This is the laundry list of everything found as a result of Section 4 above. Caltrans does not consult with SHPO under CEQA.

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HISTORICAL RESOURCES COMPLIANCE REPORT

for the California Register by the State Historical Resources Commission; are included in a local register; were identified as significant in a local survey meeting Office of Historic Preservation standards; or Caltrans, as the lead agency, determined they meet the criteria for listing in the California Register of Historical Resources:

-
- Caltrans, as the lead agency pursuant to PRC 15064.5(a), evaluated the following resource(s) within the PAL and determined that they meet National Register of Historic Places and the California Register of Historical Resources criteria and are historical resource(s) for purposes of CEQA [These also include tribal cultural resources as defined in PRC 21074.]:

PRC 15064.5(a), Evaluate significance. Caltrans does not consult with SHPO under CEQA.

7. CEQA Considerations

(Check all that apply. Do not transmit to SHPO unless there are State-owned resources within the PAL; file copy to CSO. Delete this instruction line and conclusions that are not applicable.)

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- Not applicable; Caltrans is not the lead agency under CEQA.
- Caltrans PQS staff has determined there are no historical resources within the PAL, as outlined in CEQA Guidelines 15064.5(a).
- Caltrans PQS staff has determined that the following resources previously were determined not to meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), that the prior determination remains valid, and they are not historical resources for purposes of CEQA.
 -
- Caltrans PQS staff evaluated and determined that the following resources do not meet National Register of Historic Places or California Register of Historical Resources criteria, as outlined in CEQA Guidelines 15064.5(a), and are not historical resources for purposes of CEQA.
 -
- Caltrans PQS staff evaluated and that the following resources do NOT meet National Register of Historic Places criteria but ARE historical resources for purposes of CEQA because they: are listed in the California Register of Historical Resources or were determined eligible by the State Historical Resources Commission-[PRC 15064.5(a)(1)], are included in a local register or identified as significant in a local survey meeting OHP standards [PRC 15064.5(2)], or Caltrans,

PRC 15064.5(a). Complete this section only when Caltrans is lead agency. Conclusions here should parallel the MOU conclusions except that there are additional resources that could meet California Register Criteria. See SERv2 Chapter 4 and Exhibit 4.3.

HISTORICAL RESOURCES COMPLIANCE REPORT

as the lead agency, has determined that they meet the criteria for listing in the California Register of Historical Resources [PRC 15064.5(a)(3) - (4)]:

14 CCR 15064.5(b). Conclusion is similar to Sec.106 No Historic Properties Affected and PRC 5024 No State-owned Historical Resources Affected.

The Caltrans PQS staff, pursuant to PRC 15064.5(b), has determined there is no impact to the following historical resources within the PAL. [Explain why or indicate the title of the HRCR attachment that contains the description.]

Laundry Caltrans PQS staff, pursuant to PRC 15064.5(b), has determined for following historical resources, there is no substantial adverse change - ESAs, because the impacts to the following historical resources within the PAL will be avoided through the establishment of Environmentally Sensitive Areas (ESA), enforcement measures and conditions that are included in the attached documentation. [Name], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a(n) [Indicate applicable PQS level], has reviewed the attached documentation and determined that it is adequate. (Include description of ESAs and enforcement measures below; attach ESA Action Plan as appropriate.)

14 CCR 15064.5(b) and 15064.5(b)(3). Conclusions parallel Sec. 106 & PRC 5024 FNAE-SC. Include appropriate Action Plan and attach detailed conclusion of No Substantial Adverse Change; see Exhibit 2.7 for ESA Action Plan; Exhibit 2.8 for No Substantial Adverse Change format and Exhibit 7.5 for SOIS Action Plan.

List Caltrans PQS staff pursuant to PRC 15064.5(b)(3), has determined that for the following historical resources within the PAL there is no substantial adverse change – [Specify all that are appropriate, don't include terms that are not applicable:] rehabilitation / repair / maintenance / direct or indirect alteration / transfer with protective easements, covenants and/or agreements because the proposed work that affects these historical resource(s) will be completed in a manner consistent with / will be mitigated below the level of significant impact by using [Specify one of the two preceding actions, delete the other; they are different under CEQA; the first can lead to a Class 31 CE; the second fulfills PRC 15064.5(b)(3)] the Secretary of the Interior's Standards for the Treatment of Historic Properties With Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (Standards). [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in Section 106 Programmatic Agreement Attachment 1 as a [Indicate applicable PQS level: Principal Architectural Historian or Principal Investigator], and has the appropriate education and experience, has reviewed the documentation and determined that the measures meets the Standards. [Name and applicable PQS level], has reviewed the attached documentation and determined that it is adequate. [Include a brief description of work ESAs or indicate the title of the HRCR attachment that contains the description; attach SOIS Action Plan, draft covenants or easements as

HISTORICAL RESOURCES COMPLIANCE REPORT

appropriate.]

-
- Caltrans PQS staff has determined that there is a substantial adverse change to the following historical resources and has identified measures to avoid or mitigate these changes, as described in Section 8 Mitigation Plan below. [List the resource(s) including address or locational information.]
-
-

14 CCR 15064.5(b) (1) & (2) and PRC 21084.1. Complete Conclusion of Substantial Adverse Change; see Exhibit 2.9. If mitigation has not been identified yet, complete a Supplemental HRCR and use this statement.

8. MITIGATION PLAN

(List the impacted historical resource and describe its mitigation plan below or indicate below the title of the HRCR attachment that contains the description. Archaeological sites: summarize proposed data recovery. For mitigation plans that are not complete, describe the range of suitable mitigation options. Delete this instruction line and findings that are not applicable.)

- Not applicable.
- Proposed mitigation for the following archaeological resources include:
 -
- Proposed mitigation for the following built-environment resources include:
 -
- Proposed mitigation for the following landscapes / non-structural resources include:
 -

When feasible, mitigation plans and accompanying documents may be included with the HRCR and briefly described in this section, and listed in Section 10: Attachments. However, if mitigation plans have not been fully developed, a Supplemental HRCR will need to be prepared and this section completed at that time.

HISTORICAL RESOURCES COMPLIANCE REPORT

9. STATE-OWNED HISTORICAL RESOURCES FINDINGS

Streamlining! All actions in this section are streamlined measures in 5024 MOU.

(Check all that apply. Copy to CSO. Transmit to SHPO if State-owned resources were evaluated or there are State-owned historical resources within the PAL. Attach prior SHPO correspondence as applicable. Delete this instruction line and findings that are not applicable.)

HRCR to District File

- Not applicable; project does not involve Caltrans right-of-way or there are no Caltrans-owned cultural resources within the PAL.
- [Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the PAL that are exempt from evaluation because they meet the criteria for Resource Types 1 and/or 2, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation).
- [Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the PAL that are exempt from evaluation because they meet the criteria for Resource Types 3 through 7, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation). The following state-owned cultural resource type(s) have been recorded pursuant to Stipulation VIII.C.1: [List each resource(s) by address and include the resource type, i.e. resource type 3,4,5,6,7 or a combination thereof.]
•
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.5, has determined that the following State-owned cultural resources within the PAL previously were determined not eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmarks and that determination is still valid. [List the resource(s) including address or locational information]

PRC 5024(b) & (d) and MOU Stip. VII.C.1. Normally consultation w/ SHPO, but MOU delegates authority for certain DOEs to CT CSO and districts.

PRC 5024 (b) & (d). MOU Stip. VIII.C.1 and Attach. 4. State-owned Resource Types 3-7 must be inventoried in CCRD and on DPR 523 Primary Record. To District File.

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- Caltrans has determined that the following State-owned historical resource(s) within the PAL previously were determined eligible for inclusion in the National Register of Historic Places/California Historical Landmarks but are not included in the Master List of Historical Resources, and that determination is still valid. [Include date of determination, listing, applicable eligibility criteria, period and level of significance.]
-
- Caltrans has determined that the following State-owned historical resources within the PAL previously were included in the Master List of Historical Resources, and that status is still valid. [Include date of determination, listing, applicable eligibility criteria, period and level of significance.]
-
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- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.3, has determined that the following State-owned archaeological site(s) within the PAL is/are considered eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmark(s) for the purposes of this project only because the site(s) will be protected through the establishment of ESA(s). [List the site(s)]
-

PRC 5024(b) & (d) and MOU Stip. VII.C.1.
Normally consultation w/ SHPO, but MOU delegates authority for certain DOEs to CT CSO and districts.

PRC 5024(b) and MOU Stip. VIII.C.3.
Delegates SHPO consultation on "considered eligible" to CT Districts.

PRC 5024(f) & 5024.5. MOU Stip. IX.A. & Stip. XVI.A & B.
Normally CT notifies or consults w/ SHPO. MOU delegates this authority to CT districts. This finding also includes transfer & relinquishment to federal and state agencies.

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.A.2, has determined that a Finding of No State-owned Historical Resources Affected is appropriate because there are no State-owned Historical Resources within the PAL/the following State-owned Historical Resource(s) are within the PAL but the project/activity will have no effect on it/them [List the resource(s) and state whether or not they are on the Master List.]
-

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the PAL that will be affected by the project/activity. In accordance with PRC 5024 Memorandum of Understanding Stipulations III and X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.
-

PRC 5024(f) & 5024.5, PA Stip. IX.B.
Reminder to continue to consult/ CSO on FNAE-SCs or w/ SHPO on FNAE no SCs & FAEs.

HISTORICAL RESOURCES COMPLIANCE REPORT

HRCR to SHPO

The ... Laundry List

- Not applicable. [HRCR is not sent to SHPO.]
- Caltrans has evaluated and concluded that the following State-owned cultural resources within the PAL do NOT meet National Register of Historic Places and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO’s concurrence in this determination. [List the resource(s) including address or locational information. If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.]
 -
- Caltrans has evaluated and determined that the following State-owned archaeological sites, landscapes, non-structural resources within the PAL that meet the National Register of Historic Places criteria and/or California Historical Landmark eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO’s concurrence in this determination. [List the resource(s) including address or locational information. If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.]
 -
- Caltrans has evaluated and determined that the following State-owned buildings, structures, objects and districts within the PAL meet National Register of Historic Places and/or the California Historical Landmarks eligibility criteria. Pursuant to the PRC 5024 Memorandum of Understanding Stipulation VIII.C.6, Caltrans requests SHPO’s concurrence in this determination; pursuant to PRC 5024(d), Caltrans requests that SHPO add these resources to the Master List of Historical Resources. [List the resource(s) including address or locational information; explain whether they are NRHP or CHL eligible; and state the criteria, level of significance and period of significance If applicable, per PRC 5024 MOU Stipulation VIII.C.5, also state whether the resource was previously determined eligible or listed and why the status changed.]
 -

PRC 5024(b) & (d). MOU Stip. VIII.C.6. Evaluated state-owned resources go to SHPO for concurrence. Non-structural resources such as sites, tree rows, etc. will not go on Master List. Buildings, objects, structures and historic districts containing built-environment features will be placed on the Master List.

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation IX.B, has determined that there are State-owned historical resource(s) within the PAL that will be affected by the project/activity. In accordance with PRC 5024 Memorandum of Understanding Stipulation X, Caltrans will continue consultation with CSO and/or SHPO on the assessment of effects.

PRC 5024(f) & 5024.5, PA Stip. IX.B. Reminder to continue to consult/ CSO on FNAE-SCs or w/ SHPO on FNAE no SCs & FAEs.

HISTORICAL RESOURCES COMPLIANCE REPORT

Streamlining All actions in this section are streamlined measures in 5024 MOU.

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HRCR to CSO

Not applicable.

Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.4, has determined that the following State-owned cultural resources within the PAL are considered eligible for inclusion in the National Register of Historic Places or for registration as a California Historical Landmark(s) for the purposes of this project only because evaluation was not possible. [List the resource(s) by name, address or locational information, the criterion under which the resource(s) considered eligible and the level and period of significance.]

PRC 5024(b) and MOU Stip. VIII.C.4. Delegates SHPO consultation on eligibility to CSO.

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Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.a, and Attachment 5, Caltrans has determined a Finding of No Adverse Effect with Standard Conditions - ESA, is appropriate because the following State-owned historical resource(s)—which have been determined eligible for or are listed in the National Register of Historic Place or for are eligible or are register as California Historical Landmark(s) — will be protected through the establishment of ESA(s) as described above in Section 8 HPSR to CSO. Caltrans is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Investigator- Prehistoric Archaeology / Principal Investigator Historical Archaeology / Principal Architectural Historian [List applicable discipline(s)] has reviewed the documentation and determined that the proposed ESA is appropriate. [List the site(s) and whether they are on the Master List.]

PRC 5024(f) for resources not on the Master List & 5024.5 for resources on the Master List. MOU Stip. X.B.1. Delegates SHPO consultation on FNAE-SCs to CSO. Review time at CSO is only 15 days instead of SHPO's 30-day review time. Complete FNAE-SC (see Exhibit 2.8) and appropriate ESA or SOIS Action Plan.

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Caltrans, in accordance with PRC 5024 Memorandum of Understanding Stipulation X.B.1.b. and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – SOIS is appropriate for this project/activity because the proposed work on following State-owned historical resources(s)— which have been determined eligible for or are listed in the National Register of Historic Places/as a California Historical Landmark(s), meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties. Caltrans is hereby notifying CSO of this finding. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Architectural Historian has reviewed the

HISTORICAL RESOURCES COMPLIANCE REPORT

The Laundry List

documentation and determined that the proposed work meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties. [List the property(ies) and whether they are on the Master List, and include description of work below or indicate below the title of the HRCR attachment that contains the description; attach SOIS Action Plan.]

•

- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.1.c. and Attachment 5, has determined a Finding of No Adverse Effect with Standard Conditions – CLG Designation is appropriate for this transfer/relinquishment [choose one and delete the other] because the following State-owned historical resource(s) already have been designated by a Certified Local Government, under its preservation ordinance. Caltrans is hereby notifying CSO of this finding and has attached a copy of the document by which the historical resource(s) was/were designated. _____ [Name], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as Principal Architectural Historian has reviewed the preservation ordinance and determined that it substantially meets the protective measures stipulated in PRC 5024. [List the resource(s) and address, indicate whether they are on the Master List and include the name of the CLG and the HRCR attachment that contains the copy of the local government designation.]

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- Caltrans has determined that the project/activity will have no adverse effect on following State-owned historical resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the protective measures and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.2.a, Caltrans has determined a Finding of No Adverse Effect, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and Include description of proposed measures, conservation easements, protective covenants, etc., below or indicate below, which HRCR attachment contains the description.]

PRC 5024(f) when not on Master List & 5024.5 when on Master List. MOU Stip. X.B.1. & Stip. XVI.C.1 for transfer & relinquishment. Delegates SHPO consultation on FNAE-SC:CLG to CSO. Review time for CSO is shortened to 15 days from SHPO's 30-day review time. Completed FNAE is attached to HRCR.

PRC 5024(f). MOU Stip. X.B.2. & Stip. XVI.C.2. Delegates SHPO consultation on FNAE without standard conditions to CSO for resources not on Master List. FNAE and appropriate ESA/SOIS action plan(s), are attached to HRCR.

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Caltrans has determined that the project/activity will have an adverse effect on following National Register and/or California Historical Landmark-eligible State-owned archaeological resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and in the attached Data Recovery Plan-Standard Mitigation Measures determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.C.1.a and Attachment 6, Caltrans has determined a Finding of Adverse Effect-SMM, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and indicate below, which HRCR attachment contains the full description.]

-

Caltrans has determined that the project/activity will have an adverse effect on following State-owned historical resources within the PAL that are not on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.C.2, Caltrans has determined a Finding of Adverse Effect, is appropriate and is hereby notifying CSO of this finding. [List the resource(s) including address or locational information and indicate below, which HRCR attachment contains the full description.]

-

PRC 5024(f) and MOU Stip. X.C.2.a.
Delegates SHPO consultation on FAE to CSO and allows the use of Standard Mitigation Measures for archaeological sites not on Master List. Describe effects in Section 8, and attach FAE to HRCR.

PRC 5024(f) and MOU Stip. X.C.2.a.
Delegates SHPO consultation on FAE to CSO. Describe effects in Section 8, and attach FAE to HRCR.

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- Caltrans has determined that the project/activity will have no adverse effect on following State-owned historical resources within the PAL that are on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the protective measures and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.B.2.c and Stipulation X.D Caltrans has determined a Finding of No Adverse Effect, is appropriate, is hereby notifying CSO and requests SHPO's concurrent concurrence with this finding. [List the resource(s) including address or locational information and Include description of proposed measures, conservation easements, protective covenants, etc., below or indicate below, which HRCR attachment contains the description.]
 -
- Caltrans has determined that the project/activity will have an adverse effect on following State-owned historical resources within the PAL that are on the Master List of Historical Resources. _____ [Name of Caltrans PQS], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable Principal PQS level], and has the appropriate education and experience, has reviewed the mitigation measures described above in Section 8 Mitigation Plan and determined that these measures are appropriate. Pursuant to PRC 5024 Memorandum of Understanding Stipulation X.C.2 and Stipulation X.D, Caltrans has determined a Finding of Adverse Effect, is appropriate, is hereby notifying CSO and requests SHPO's concurrent concurrence with this finding. [List the resource(s) including address or locational information and indicate below, which HRCR attachment contains the full description.]
 -

PRC 5024.5 and **MOU Stip. X.C.2.a.** and **MOU Stip. X.C.2.b.,** **Stip. XVI.C.2. & D.** CSO reviews District HRCR and sends to SHPO for consultation. Describe mitigation in Section 8 above, and attach FAE to HRCR. **PRC 5024 MOU Stip. X.D** allows concurrent SHPO consultation on eligibility, assessment of effects and mitigation measures for resources on the Master List, i.e.all three actions may be sent to SHPO at the same time.

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- For State-owned qualified historical buildings, and other State-owned historical resources within the PAL, Caltrans has applied the California Historical Building Code (CHBC) to relevant sections of the current code(s) and/or standards and, if applicable, has consulted with the California Historical Building Safety Board (SHBSB) through its Executive Director pursuant to Health and Safety Code Section 18961 and its implementing regulations at California Code of Regulations Title 24 Part 8 Section 8-103.2. [Indicate below whether use of current code(s) and standards adversely affected character-defining features of the property and describe the alternative solutions under the CHBC, or indicate below which HRCR attachment contains the description. If applicable, attach copies of correspondence with the SHBSB or its Executive Director.]

Health & Safety Code Secs. 18950-18961, 14 CCR 15064.5(b) (5), and MOU Stip. X.B.1 and Attach. 5.2.C.
Evidence of consultation or reason why consultation is not necessary or is required under Health & Safety Code and attach Finding of Effect to HRCR.

10. LIST OF ATTACHED DOCUMENTATION

(Provide the author/date and peer reviewer/date of the technical report. Delete this instruction line and documentation that is not applicable.)

- Project Vicinity, Location, and PAL Maps
- California Historic Bridge Inventory sheet
- Historical Resources Evaluation Report (HRER)
 -
- Archaeological Survey Report (ASR)
 -
- Archaeological Evaluation Report (CARIDAP, XPI, PII, PIII)
 -
- Environmentally Sensitive Area (ESA) Action Plan
 -
- Secretary of the Interior’s Standards for the Treatment of Historic Properties (SOIS) Action Plan
 -
- Other (Specify below)
 -

5024 MOU Stip. XVII requires PALs, DOEs and findings of effect be supported by sufficient documentation; it also requires the documentation to be in accordance with the SERv2.

HISTORICAL RESOURCES COMPLIANCE REPORT

11. HRCR PREPARATION AND CALTRANS APPROVAL

Prepared by (sign on line):

District ___ Caltrans PQS: [Name] Date
[PQS level and discipline]

Prepared by: (sign on line)

Consultant / discipline: [Name] Date
[PQS level and discipline]

Affiliation [Firm/company and location]

Reviewed for approval by:
(sign on line)

While other Caltrans PQS might review the draft HRCRs for specific disciplines, only one Caltrans PQS signs for EBC approval

District ___ Caltrans PQS [Name] Date
discipline/level: [PQS certification level]

Approved by: (sign on line)

While other Caltrans EBCs might review the draft HRCR and attachments, only one Caltrans EBC signs the HRCR to signify approval.

District ___ EBC: [Name] Date
[Environmental Branch name]

14 CCR 15064.5(a) and (b), PRC 21084.1, PRC 5024 and MOU Stip. VI. The CT EBC's signature approves the HRCR's legal findings for Caltrans under CEQA, and as delegated by SHPO in the PRC 5024 MOU.

Exhibit 2.15: Cultural Resources Information to Include in Environmental Documents

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Exhibit 2.15: Cultural Resources Information to Include in Environmental Documents

Cultural resources technical studies and findings of effects documents all include summary paragraphs and descriptions that should be used in the appropriate level federal and state-only environmental documentation. These summaries should contain the same types of information and, in most cases, can be used wholesale in the environmental documentation. Staff or consultants who are reviewing or preparing cultural resources documents or environmental documents should ensure that the following information is included.

Summary descriptions of historic properties: What to look for

Summary descriptions of properties eligible for or listed in the National Register of Historic Places need to be included in environmental documents. These descriptions may be excerpted from the Historic Property Survey Reports or its attached technical studies.

- Historic name and location (unless location is confidential)
- Applicable National Register criteria A, B, C and/or D with brief statement as to how the property meets those criteria.
- Level of significance (local, state, and/or national)
- Period of significance
- Verbal description of the National Register boundaries
- Maps depicting National Register boundaries

For CEQA documents include summary descriptions of resources eligible for or listed in the California Register of Historical Resources, California State Historical Landmarks, and/or locally designated landmarks (historical resources under CEQA). Summary descriptions contain the same information described above, with the appropriate state regulations cited. These descriptions can be excerpted from the Historical Resources Compliance Report or its attachments.

REAL-LIFE EXAMPLE: Located approximately 4.8 kilometers (3 miles) north of the Town of Mendocino in Mendocino County, the **Russian Gulch Bridge** (10-151), also known as the Frederick W. Panhorst Bridge, is eligible for inclusion in the National Register of Historic Places under Criterion C. It also is a historical resource for purposes of CEQA, because it meets CEQA Guidelines 15064.5(a)(3)(C).

It is eligible under **Criterion C, for its design and construction, because it embodies the distinctive characteristics of mid-20th-century designs for open-spandrel reinforced concrete arch bridges. It is also eligible under Criterion C for being the work of a master bridge designer, Henry E. Kuphal**, whose aesthetic and technical achievements as a bridge designer in California are conveyed by this example from the second half of his career. The Russian Gulch Bridge (10-151) is **eligible at the local and state levels of significance; its period of significance is 1939-1940**. The **boundaries of the historic property include the bridge itself and adjacent right of way**. Contributing elements include the main spandrel arch, concrete bents, concrete spans, arch ribs, pointed-arch window railings, cantilevered walkways with curbs, and bridge railing ends that contain the incised date, 1939. Because it is an anachronistic feature, the bronze memorial plaque is a noncontributing element, as is the asphalt overlay on the roadbed itself and the metal guardrails at the north- and southbound approaches to the bridge.

Summary Descriptions of Effects: What to look for in the Finding of Effect

For effects to historic properties, include in the environmental document why there is an effect. This information can be taken from the Finding of Effects (FOE) report prepared for Section 106 compliance.

- Name of historic property
- Brief description of how the property is sited in its environment
- Description of what each alternative will actually do to the property
- Description of how the effect is adverse or not adverse
- Appropriate regulatory citation.

EXAMPLE (fictional composite): The Bayview House faces west, fronting on Longshore Road with contributive views of the bay; the house is visible through the low perimeter hedges from Longshore Road and the existing freeway. Access to the property is from Longshore Road. Alternative 1 **proposes to take a portion of the Bayview House parcel** for the freeway widening project, **shift Longshore Road eastward forty-five feet** (and onto the Bayview House property), relocate the driveway (access to the house), and **construct a sound wall at the edge of the freeway, which runs in front of the house, obstructing the house's contributive bay views.**

This alternative would result in: 1) physical destruction of and alteration to part of the Bayview House property [36 CFR 800.5(a)(2)(i)]; change of the physical features within the property's setting [36 CFR 800.5(a)(2)(iv)]; and introduction of visual elements that are out of character with the Bayview House [36 CFR 800.5(a)(2)(v)].

Conditions that avoid an adverse effect to a historic property will be summarized in the project's Finding of No Adverse Effect and should be used in the appropriate level federal environmental documentation. Mitigation measures for historic properties are summarized in the Memorandum of Agreement and can be summarized in the federal environmental documentation.

For CEQA documents, the summary of effects to historical resources, and appropriate mitigation measures are contained in a single document, the Historical Resources Compliance Report. These descriptions can be taken from the Historical Resources Compliance Report to use in the CEQA documentation.

Cultural Resources Document Preparers

The qualifications for those who prepared cultural resources documents must be included in federal and state environmental documentation. For this reason it is necessary to include them in the cultural resources documents.

The list of environmental document preparers should include all those who prepared the technical studies including the cultural resources reports. All cultural resources reports should already contain this information.

The Caltrans Division of Environmental Analysis Cultural and Studies Office (CSO) in Sacramento maintains the official file of qualifications for all Caltrans cultural resources specialists who have been certified as Professionally Qualified Staff (PQS), as required

under the Section 106 Programmatic Agreement (Section 106 PA) Stipulation III and Attachment 1. Under the Preparer's Qualifications sections of the cultural resources documents, put the name(s) of the preparers and indicate the level at which they are certified as and that their qualifications are on file in the CSO Office. District Environmental Branch Chiefs are responsible for ensuring this information is included in the appropriate level state and federal environmental documentation, in addition to the appropriate cultural resources documents.

All consultant and non-Caltrans cultural resources specialists must be able to establish that they meet the PQS qualifications outlined in [Section 106 PA](#) Attachment 1 and make that documentation available for inspection. Caltrans, however, does not certify consultants or cultural resources specialists who are not Caltrans staff. The preparer's qualifications sections of the cultural resources documents must contain the following for all cultural resources specialists who are not certified as Caltrans PQS.

District Environmental Branch Chiefs are responsible for including summaries of this information in the appropriate level of state and federal environmental documentation:

- Name
- Classification or Job Title
- Appropriate educational degree(s) (e.g. M.A. Public History, University of California, Santa Barbara or Ph.D. Anthropology, University of California, Davis)
- Number of years relevant experience conducting cultural resources studies, etc. (e.g. ten years with Quoins & Architrave Consultants, Inc. conducting architectural resources/archaeological surveys; three years as cultural resources planner for the City of Metropolis conducting Section 106 and CEQA compliance)

Exhibit 2.16:

External Distribution and Publication Of Reports and Public Presentations

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Exhibit 2.16:

External Distribution and Publication of Reports and Public Presentations

Introduction

When there is demonstrable public benefit in doing so, Caltrans may copy and distribute, unedited or with minor editing to preserve confidentiality, technical reports prepared in the ordinary course of work. Additionally, Caltrans may authorize publication of reports, edited as needed, for wider distribution, or make public presentations based on Caltrans work in accordance with Caltrans and FHWA written policies.

Caltrans and FHWA Policy

FHWA's policy regarding the publication and distribution of cultural resources reports is addressed in FHWA's [*Guidance on the Consideration of Historic and Archeological Resources in the Highway Project Development Process*](#) (1988), responses to questions No. 18 and 25. Under question No. 18, it is stated "if widespread public interest is expected, a short, edited version focused at the non-academic public may be prepared. . . ." Regarding archaeological reports specifically, it states that a "limited number of copies of reports may be made available to the archeological community if it is determined by the Division Administrator to be in the public benefit and without financial gain to any party." Under question No. 25, FHWA approves of the use of Federal-Aid Highway Program funds to pay for "reasonable, justified efforts; such as . . . limited non-profit publication; performed as a part of an approved research design . . ."

It is Caltrans' policy to "inform and educate its work force, partners and customers about plans, activities and accomplishments. The Department distributes publications in an efficient, cost-effective manner that is appropriate for the audience. Publications should be professional in quality and consistent with the Administration's objectives." ([Deputy Directive DD-27-R1](#) [revised 01-02-01], *Caltrans Publications*). Therefore, only cultural resource reports, papers, or findings of substantial interest and high quality may be considered for publication or presentation to the public.

Distribution of unpublished technical reports

Under certain circumstances, copies of Caltrans technical reports may be provided to the Caltrans Transportation Library, appropriate local or statewide repositories, or organizations or individuals who had expressed interest, particularly those parties who had contributed to the study. Distribution of reports may occur *only* after satisfying *all* of the following requirements:

- This stage of Section 106 is complete; the report is final, with SHPO concurrence.
- Distribution conforms to FHWA and Caltrans written policies.
- Confidentiality or privacy concerns have been satisfied; any confidential information has been removed.
- Public ownership of the reports has been established (for Caltrans distribution of consultant-prepared reports).
- The public benefit of distributing specific reports to specific recipients has been identified and approved by the appropriate Branch Chief.

Procedures for Evaluating Proposed Publications

Reports are evaluated for potential publication on a case-by-case basis. The Caltrans Professionally Qualified Staff (Caltrans PQS) who authored the report, or who approved a consultant-prepared report, submits an abstract of the proposed publication to the DEBC along with a memo recommending number of copies, price, and proposed distribution. The DEBC evaluates the request, and if it meets with approval, submits a recommendation to the District Director. If the District Director concurs, the request for approval is submitted to the Chief, Division of Environmental Analysis (DEA), who makes the final decision on publication and authorizes the use of Caltrans support services. It is anticipated that the DEA Chief, will consult with the Cultural Studies Office (CSO) Chief on publication of cultural resources reports.

If a Headquarters PQS authored or approved the report, a similar request is submitted through the appropriate CSO branch chief to the CSO Chief. The DEA Chief delegated to the CSO Chief approval of such requests from Headquarters staff. The CSO Chief will also consult on this decision with the DEBC responsible for the project.

Publication and Distribution

The sales price of the report, if sold by Caltrans, is determined by the total cost of the report's preparation and reproduction. Reports are sold exactly at cost in accordance with FHWA's non-profit policy for publications as well as California state law that prohibits making a gift of public funds (i.e., selling publications below cost).

Reports are sold through the Central Publications Distribution Unit. The use of other agents to print and distribute documents may be considered on a case-by-case basis, pending approval by Caltrans Legal Division.

Mandatory Clauses

All Caltrans reports – Credit and Disclaimer Statements

Whether published by Caltrans or consultants, all reports must include all of the following:

- The contract cost and contract number on the title page
- For federal undertakings, the credit reference: "Prepared in cooperation with the State of California, Business, Transportation and Housing Agency, and the U.S. Department of Transportation, Federal Highway Administration"
- For state-only projects and activities, the credit reference: "Prepared in cooperation with the State of California, Business, Transportation and Housing Agency"
- This disclaimer statement: "The contents of this report reflect the views of the author who is responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the State of California or the Federal Highway Administration [*include FHWA for federal undertakings*]. This report does not constitute a standard, specification, or regulation."

Consultant-prepared reports

A consultant may publish a PQS-approved final report. In addition to the above items, the consultant-prepared report may be published under the following conditions:

- Any material contained in the final report which has received final acceptance by the State and FHWA may be published in any form and through any media the consultant may desire without further written permission by Caltrans, sub-

ject only to the inclusion of credit and disclaimer statements (listed above), and with the exception of confidential Native American records (listed below) for which written permission is required.

- If Caltrans or FHWA disagree with a consultant's findings or conclusions, this information must be included in the published report along with any Caltrans or FHWA comments in a clearly identified section, such as "Sponsor's Comments." The consultant may publish the material contained in the report 70 days after it has been resubmitted in final form to Caltrans subject to the inclusion of: a statement that Caltrans does not concur with the findings and conclusions of the research; and the credit and disclaimer statements are included (listed above). The DEBC is responsible for ensuring that the information is included.
- Consultants may publish the results of the study or any of its particulars in separate reports or by submission of technical papers to professional organizations subject to the publication provisions outlined in their contracts. Both written and oral releases are considered to be within the context of publication. However, there is no intention to limit discussions of the study with small technical groups or lectures to employees or students. Lectures to other groups that describe the plans, but disclose neither data nor results are permissible without advance Caltrans review.
- In unusual cases when the scheduled time for the preparation of a technical paper, containing previously undisclosed findings, for presentation at professional meetings or submission to professional organizations does not permit time for formal review and acceptance, an abstract and notification of intent to present the paper shall be submitted to the appropriate DEBC or CSO Chief for concurrence. Such concurrence will normally be given unless there is indication of new and controversial findings and conclusions based on data that Caltrans has not reviewed. To protect the interest of the sponsoring agencies, such presentations shall contain: 1) a statement that the paper has not been reviewed by the sponsoring agencies; and, 2) the credit and disclaimer statements (listed above).
- The confidential records of Native American graves, cemeteries, and sacred places, and records that relate to archaeological site information are exempt from public disclosure in reference to California Government Code 6254(r) and 6254.10 and *shall not be published in any form and through any media without express written permission by the State.*

Under state and federal law, a consultant is free to copyright material developed under a Caltrans contract, with the condition that the State and FHWA reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the report for government purposes. Such a clause should be included in any Caltrans contract involving cultural resources reports.

Mandatory Distribution List for Published Reports

When cultural resources reports are published for sale or for distribution to the public, Caltrans must follow the distribution policy outlined in “Distribution of Caltrans Publications,” available in-house on the Caltrans Library and History Center Intranet site. Additionally Caltrans must distribute courtesy copies to:

- FHWA, if the report is the result of an FHWA-assisted project
- SHPO
- Advisory Council on Historic Preservation (ACHP), if the publication is a stipulation of a Memorandum Of Agreement to which ACHP is a party
- California Native American Heritage Commission (if applicable)
- Appropriate CHRIS Information Center

FHWA may request that Caltrans forward a copy to appropriate National Park Service (NPS) Programs (e.g., Archaeological Assistance, Heritage Documentation Programs, Heritage Preservation Services) at the Department of the Interior in Washington, DC, or to the NPS Regional Office, as appropriate. For California, it is the NPS Pacific West Regional Office in San Francisco, California.

Procedures for Evaluating Proposed Presentations

When Caltrans staff plans to make public presentations, the following procedure is used. Papers and other presentations are evaluated on a case-by-case basis. The Caltrans Professionally Qualified Staff (Caltrans PQS) who proposes to make a public presentation or give a paper based on work done on behalf of Caltrans submits an abstract of the paper or presentation to the DEBC along with a memo explaining the benefit of making the presentation to the public. If the DEBC approves the presentation or paper, the DEBC provides notice of the presentation or paper to the District Director and the CSO Chief.

If a Headquarters PQS proposes to give a paper or make a presentation, a similar request is submitted through the appropriate CSO branch chief to the CSO Chief

for approval. The CSO Chief will also consult on this decision with the DEBC responsible for the project, if the content of the presentation or paper involves a district project. If the CSO Chief approves the proposed presentation or paper, the CSO Chief provides notice of the presentation or paper to the DEA Chief and District Director, if applicable.

Consultants who propose presentations or papers based on work done on behalf of Caltrans will follow the specifications of the contract under which the work was presented.

Exhibit 2.17: Excess Property Transfers and Route Relinquishments

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Sample Historical Covenant Template

Sample Assignment Assumption Agreement Template

Exhibit 2.17: Excess Property Transfers and Route Relinquishments

INTRODUCTION

Caltrans must comply with California Public Resources Code (PRC) 5024 whenever it transfers titles to Caltrans-owned parcels¹ out of its ownership or relinquishes a state route. If the property to be transferred or relinquished contains resources that are listed or eligible for listing in the National Register of Historic Places (NRHP) or are registered or eligible for registration as California Historical Landmarks (CHL)² Caltrans uses the Historical Resources Compliance Report (HRCR)³ to document compliance with PRC 5024, and when applicable, CEQA, prior to transferring property out of Caltrans ownership. In addition, for route relinquishments, the roads themselves could be historical resources, such as segments of Route 66, the Lincoln Highway, old U.S. 40, and U.S. 99.

Caltrans transfers state-owned historical resources with appropriate protections. PRC 5024 compliance must be complete and the HRCR on file before the parcel transfers or route relinquishments can be placed as agenda items for consideration by the California Transportation Commission.

Most excess parcel transfers are not subject to NEPA, Section 106 or CEQA. See the Standard Environmental Reference Volume 2 (SERv2) [Chapter 2 Section 2.7.10](#) for a more detailed discussion of NEPA, Section 106, and CEQA as they relate to excess property and route relinquishments.

This exhibit discusses the various ways in which Caltrans identifies and provides protections for historical resources to be transferred or relinquished, in order to comply with PRC 5024, and when applicable, CEQA. The exhibit also discusses how that compliance is documented. The level of effort required for identification,

¹ Examples of transferring title to real property include excess parcel sale, donation, trade, or relinquishment. See Right-of-Way Manual [Section 16.05.02.00](#)

² NRHP/CHL listed and eligible resources also include contributing elements/resources of NRHP/CHL listed and eligible historic districts.

³ For federal undertakings that include evaluations of state-owned historical resources or the transfer/relinquishment of state-owned historical resources as a protective or mitigation measure, complete “Section 9 Findings for State-Owned Historic Properties” in the Historic Property Survey Report and, as necessary, Finding of Effect and MOA, in place of using the HRCR.

evaluation and protection of historical resources depends on who will be the new owner of the property and whether the new owner is a public or private entity.

For excess property and route relinquishments with no cultural resources or only resources that are exempt from evaluation, the HRCR itself can be as simple as the Caltrans PQS checking the appropriate boxes on the HRCR form, obtaining the appropriate signatures, and filing the HRCR in the district, with a copy to the Headquarters Cultural Studies Office (CSO) Built Environment Preservation Services (BEPS) Branch Chief. The majority of transfers and relinquishments likely would follow this scenario. The degree of evaluation and consultation when excess property and route relinquishments involve cultural resources that are *not* exempt from evaluation will depend on the type of resource and to whom the resource would be transferred. The general procedures for compliance under PRC 5024 are outlined in [Chapter 2 Section 2.8](#) and for excess parcel and route relinquishments, in [Section 2.8.10](#).

Coordination with Right of Way

When transferring property out of Caltrans ownership, District Right-of-Way staff follow the guidance described in the [Chapter 16](#) of the Right of Way Manual, which includes completing environmental compliance. Excess Land staff within District Right of Way initiates environmental compliance procedures with District Environmental staff as soon as they know "property may become excess." Environmental compliance needs to be complete before Caltrans can request the California Transportation Commission's approval to transfer the title to real property out of its ownership. Therefore, it is important that District Right of Way and Environmental staff closely coordinate their efforts throughout the process.

Future owner and future use

In order to complete the HRCR, in addition to knowing whether there are NRHP eligible/listed or CHL registered/listed resources on the parcel to be transferred or relinquished, one needs to know to whom the property will be transferred and whether there are known future plans for the property. This information directs how the HRCR is prepared and the level of documentation and consultation needed to complete cultural resources compliance. District Right-of-Way staff should provide that information as soon as it is known so that it does not delay environmental compliance.

DEFINITIONS

Unless specifically indicated otherwise, the following descriptions and definitions of terms apply throughout to this exhibit.

Built Environment resources: These are buildings, structures and objects (both individual or in groups such as districts) that have been constructed by humans and used for any human activity.

Caltrans PQS - Preparation of cultural resources documents: The term Caltrans PQS refers to all cultural resources specialists who meet the Caltrans Professional Qualifications Standards (PQS) as described in Attachment 1 of the [PRC 5024 Memorandum of Understanding](#) (5024 MOU) and to all consultants who meet the Secretary of the Interior's Professional Qualifications Standards, incorporated into the PQS qualifications outlined in [5024 MOU Attachment 1](#), or to consultants whose work is overseen by a consultant who meets the PQS requirements in the relevant discipline(s).

Caltrans PQS - Review and approval of cultural resources documents: This refers only to Caltrans cultural staff who meet the PQS standards in the 5024 MOU Attachment 1. This is because Caltrans PQS staff have specific responsibilities under the 5024 MOU.

Master List of Historical Resources (Master List): This is a list of state-owned historical resources (including all property types) that are listed in the NRHP or registered as CHLs, and state-owned *buildings and structures that have been determined eligible* for inclusion in the NRHP or eligible for registration as a CHL. The Office of Historic Preservation (OHP) maintains the Master List pursuant to Public Resources Code (PRC) 5024, and it is integrated into the OHP database. State-owned historical resources on the Master List have the OHP historical resource status code "4CM." While nonstructural resources that have been determined eligible for the NRHP or as a CHL are still subject to PRC 5024, they are not included on the Master List.

Non-structural resources: These are sites that do not contain buildings, structures and objects, natural environments (whether occurring naturally or designed landscapes such as parks and tree rows), and archaeological sites.

CEQA: EXCESS PROPERTIES AND ROUTE RELINQUISHMENT

CEQA does not apply

The HRCR needs to be completed even when CEQA does not apply because Caltrans is always required to comply with PRC 5024 when state-owned property is transferred or relinquished.

Section 7 (CEQA Considerations) of the HRCR form or narrative HRCR is where one documents the finding that CEQA does not apply to the cultural resources that are being transferred or relinquished. Check the box that says "N/A" and state that the transfer/relinquishment is not considered a project under CEQA. Complete the rest of the HRCR; see [Exhibit 2.14](#) and PRC 5024: [Excess Properties and Route Relinquishments](#) below.

CEQA applies

When CEQA *does* apply (see [Chapter 2 Section 2.7.10](#)), Caltrans is required to determine whether there are historical resources [as defined in PRC 15064.5(a)(4)] on the property. This may include, if necessary, evaluation for NRHP and CHL eligibility, or as a historical resource under CEQA. Follow the state-only procedures outlined in [Chapter 2 Sections 2.7](#) and [2.9](#), and in [Exhibit 2.14](#).

It is possible that state-owned resources are ineligible for listing in the NRHP/CHL but local agencies have designated them as historic under their own preservation ordinances. Some of these local agencies may be Certified Local Governments, others might not be certified but have preservation ordinances. Caltrans treats these resources as historical resources for purposes of CEQA and follows the procedures set forth below under [Finding of No Adverse Effect – Standard Conditions: CLG](#), [Finding of No Adverse Effect without Standard Conditions](#), [Finding of Adverse Effect: Standard Mitigation Measures for Archaeological Sites](#), and [Finding of Adverse Effect and Mitigation Measures](#).

The HRCR documents the presence or absence of historical resources under CEQA (Sections 1 through 6 of the HRCR), and the actions Caltrans takes in considering and protecting those historical resources (HRCR Sections 7 and, as appropriate, Section 8-Mitigation Plan). Complete the rest of the HRCR; see PRC 5024: [Excess Properties and Route Relinquishments](#) below.

PRC 5024: EXCESS PROPERTIES AND ROUTE RELINQUISHMENTS

As described [Chapter 2 Section 2.8.10](#), prior to transferring or relinquishing state-owned historical resources, PRC 5024 requires Caltrans to assess the effects of the transfer or relinquishment on state-owned historical resources. Caltrans district PQS follow the process outlined in Chapter 2 Section 2.8.10. Either Caltrans PQS or qualified consultants may prepare the HRCR and supporting documentation, but only Caltrans PQS can approve the documentation; see [Chapter 7 Section 7.3](#); Professional Qualification for additional information.

For all excess parcel transfers and route relinquishments the process will include:

- Conducting sufficient background research to identify previously evaluated resources, the results of those evaluations and whether they are still valid
- Completing new DPR 523 inventory forms or updating existing forms, as necessary for resources not exempt from evaluation
- Describing the results of the research and inventory, including which resources previously were identified as historical resources under CEQA and/or previously were listed or determined eligible for the NRHP or CHL
- Making conclusion(s) regarding the presence of state-owned NRHP or CHL listed/eligible resources on the Caltrans property and the potential effects of the transfer or relinquishment on state-owned historical resources.

All this research is documented in the HRCR. Depending whether there are cultural resources that need evaluation and/or their NRHP or CHL status needs to be confirmed, more work may be needed, as explained below.

PRC 5024 Memorandum of Understanding

The PRC 5024 Memorandum of Understanding⁴ (5024 MOU), which is [Exhibit 1.2](#) of the SERv2, includes in [Stipulation XVI](#) the process by which Caltrans complies with PRC 5024 for transfers and relinquishments of state-owned resources. It includes streamlined measures for situations in which: there is an absence of cultural resources; the only cultural resources are exempt from evaluation; NRHP/CHL

⁴ *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* became effective on January 1, 2015.

eligible or listed resources⁵ are transferred to the federal government or to another state agency; the NRHP/CHL eligible or listed resources are or are not on the Master List of Historical Resources (Master List); Standard Mitigation Measures may be used for certain archaeological sites; and NRHP/CHL eligible or listed resources that have been designated under a Certified Local Government (CLG) preservation ordinance may be transferred without other protective measures.

According to 5024 MOU [Stipulation IV.E](#), the Master List, which SHPO maintains, “includes state-owned historical resources:⁶ 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 listing in the NRHP pursuant to 36 CFR 800.4(c)(2), 36 CFR 60 or 36 CFR 63; or for eligible for registration as a CHL pursuant to PRC 5024(d) or 5020.4(a)(1).”

This stipulation also explains what is *not* on the Master List, “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.”

A resource’s Master List status is the key to how NRHP/CHL eligible or listed state-owned historical resources are treated under the 5024 MOU; see also [Chapter 7 Section 7.13.2](#) for information on the Master List. Under the 5024 MOU, Caltrans is allowed to

- Make determinations on whether state-owned historical resources *not* on the Master List would be adversely affected by the transfer/relinquishment without seeking SHPO’s comments under PRC 5024(f);
- Transfer state-owned historical resources on the Master List to federal agencies and other state agencies without first seeking SHPO’s comments under 5024.5; and

⁵ NRHP/CHL listed and eligible resources also include contributing elements/resources of NRHP/CHL listed and eligible historic districts.

⁶ State-owned historical resources include buildings, structures, archaeological sites, objects, historic districts, as well as other non-structural sites, such as tree rows, landscapes.

- Transfer state-owned historical resources on the Master List that are designated under a CLG preservation ordinance without additional protections and without first seeking SHPO's comments under PRC 5024.5.

Evaluation of State-owned archaeological sites

Prior to transfers or relinquishments Caltrans PQS follow the standard procedures outlined in [Chapter 5](#) and [Chapter 6](#) to identify NRHP listed/eligible or CHL registered/eligible state-owned archaeological sites. For archaeological sites that were not previously determined eligible or ineligible, Caltrans PQS needs to disclose in the HRCR what is known about any sites on the excess parcel, based on the pre-field research and field review. If possible Caltrans PQS needs to conclude, based on all the available information, whether the site(s) on the excess property potentially meets NRHP or CHL criteria, or whether it can be assumed NRHP/CHL eligible for purposes of this transfer. At a minimum, the site(s) need to be recorded on a DPR 523A Primary Record.

SHPO recognizes that the cost of evaluating previously unevaluated archaeological sites can be very expensive and exceed what would be a reasonable and good faith effort to evaluate them, whether to conduct test excavations to determine NRHP/CHL eligibility needs to be considered on a case-by-case basis and will depend on what is already known about the resource through conducting background research and initial surveys; see [Chapter 4](#) sections [4.5](#) and [4.6](#). What is known about the resource would include tribal consultation on cultural values. Similarly, the conditions for transferring archaeological sites may vary on a case-by-case basis, and might include measures to ensure future evaluations to confirm NRHP or CHL eligibility.

Evaluation of State-owned non-structural resources

If not previously evaluated and not exempt from evaluation, Caltrans PQS follow the standard procedures outlined in [Chapter 2](#) and in [Chapter 7](#) to identify and evaluate state-owned landscapes, tree rows, and other non-structural resources. Eligibility determinations are included in the HRCR for consultation with SHPO, pursuant to 5024 MOU [Stipulation VIII.C.6](#). However, these resources, if determined eligible, will not be placed on the Master List.

Evaluation of State-owned built environment resources

If not previously evaluated and not exempt from evaluation, Caltrans PQS follow the standard procedures outlined in [Chapter 2](#) and in [Chapter 7](#) to identify and evaluate

state-owned buildings and structures (e.g., bridges, equipment yards, maintenance stations, roads and highways). Eligibility determinations are included in the HRCR for consultation with SHPO pursuant to 5024 MOU [Stipulation VIII.C.6](#). If determined eligible, Caltrans requests that they be placed on the Master List pursuant to PRC 5024(d).

PRC 5024 determinations of eligibility

[Chapter 2, Section 2.8.3](#) of the SERv2 contains the process by which Caltrans transmits the documentation to SHPO for comment, the time frames for SHPO review and how Caltrans can move on in the absence of SHPO comments. One caveat to keep in mind is that if Caltrans and the SHPO disagree on the NRHP/CHL eligibility of a state-owned historical resource and that disagreement cannot be resolved, the SHPO's determination is final and binding. See [Chapter 2 Section 2.8.3.2](#) Disagreement on Eligibility and [5024 MOU Stipulation VIII.C.6.b](#).

NO STATE-OWNED HISTORICAL RESOURCES AFFECTED

While transfers of excess parcels and route relinquishments where no historical resources are present require minimal work, compliance with PRC 5024 is still necessary to document that no historical resources would be affected by the transfer, pursuant to PRC 5024(a) and (b). As mentioned above, the identification and evaluation of cultural resources still needs to be completed prior to any transfer or relinquishment. When there are no cultural resources within the Project Area Limits (PAL) or the only cultural resources within the PAL are exempt from evaluation as outlined in 5024 MOU [Stipulation VI.A](#) and [Attachment 4](#), the District or CSO as appropriate documents these conclusions in the HRCR form or narrative format. In the HRCR, "Section 9 State-Owned Historical Resources Findings" under "HRCR to District File" include the following statements

- Not applicable; project does not involve Caltrans right-of-way or there are no Caltrans-owned cultural resources within the Project Area Limits.
- *[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist],* who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) *[Indicate applicable PQS level]* and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the Project Area Limits that are **exempt**

from evaluation because they meet the criteria for **Resource Types 1 and/or 2**, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation).

- *[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist]*, who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) *[Indicate applicable PQS level]* and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the Project Area Limits that are **exempt from evaluation** because they meet the criteria for **Resource Types 3 through 7**, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (Properties Exempt from Evaluation). **The following state-owned cultural resource type(s) have been recorded pursuant to Stipulation VIII.C.1:** *[List each resource(s) by address and include the resource type, i.e. resource type 3, 4, 5, 6, 7 or a combination thereof.]*
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.5, has determined that **the following State-owned cultural resources** within the Project Area Limits **previously were determined not eligible** for listing in the National Register of Historic Places or for registration as California Historical Landmarks and that determination is still valid. *[List the resource(s) including address or other locational information]*
- Caltrans, pursuant to PRC 5024 Memorandum of Understanding **Stipulations IX.A and XVI.A.1**, has determined that a **Finding of No State-owned Historical Resources Affected** is appropriate because *[include all that apply]* there are no cultural resources within the Project Area Limits; only State-owned cultural resources that are exempt from evaluation pursuant to Stipulation VIII.B.1 and Attachment 4 of this MOU are within the Project Area Limits; the State-owned cultural resources within the Project Area Limits were previously determined not eligible for listing in the NRHP or for registration as a CHL.

For state-owned cultural resources evaluated as ineligible as part of the cultural resources study for transfer or relinquishment, if SHPO objects to the determination within 30 days of receipt of the Caltrans District's request for concurrence, the HRCR to District file cannot be used.

Transfer/Relinquishment: Federal Agency

Federal agencies have responsibilities under Sections 106 and 110 of the National Historic Preservation Act (NHPA) to protect and preserve NRHP listed and eligible properties. These sections of the NHPA are roughly equivalent to Caltrans' responsibilities under PRC 5024. The level of effort needed to identify and protect these resources is commensurate. Therefore, transfers/relinquishments to federal agencies of state-owned historical resources, whether or not the resource is on the Master List, is considered to be a “No State-owned Historical Resources Affected” finding pursuant to 5024 MOU [Stipulation XVI.B](#) and PRC 5024(f) for state-owned historical resources not on the Master List, or PRC 5024.5 for resources on the Master List.

State-owned historical resources not on Master List

The “HRCR to District File” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed property*] to [*agency name*], a federal agency, would result in **no effect to State-Owned Historical Resources under PRC 5024 Memorandum of Understanding Stipulations IX.A and XVI.B, and PRC 5024(f)** because the historical resource automatically would be protected under Sections 106 and 110 of the NHPA. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the applicable federal laws are appropriate protection. A copy of this HRCR will be included as an attachment to the Caltrans transmittal letter transferring the property to the federal agency."

State-owned historical resources on Master List

The “HRCR to District File” section of the HRCR would include a statement like the one above but with a different citation:

“...would result in no effect under PRC 5024.5...”

The District or CSO retains the HRCR in its files and implements the procedures in [5024 MOU Stipulation IX.A](#) that require the district to notify any interested parties cited in 5024 MOU 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. The District provides a copy of the HRCR to File to CSO for the 5024 MOU annual report. Following satisfactory completion of these steps, no further review is required, unless the transfer does not occur. See [Chapter 2 Section 2.8.10.1](#) No State-Owned Historical Resources Affected by Transfer/Relinquishment for additional guidance.

California Historical Landmarks and historical resources under CEQA

Sections 106 and 110 of the NHPA are not explicit about federal agencies' responsibilities to protect CHL registered/eligible resources and historical resources under CEQA. In the interest of full disclosure, however, Caltrans needs to inform the federal agency that these types of resources are present on the excess parcel.

Transfer/Relinquishment: State Agency

Other state agencies have the same responsibilities under PRC 5024 as Caltrans. According to the SHPO, transfers to other state agencies essentially have no effect because state agencies all have the same responsibilities under PRC 5024. Therefore, transfers of state-owned historical resources to other state agencies, whether or not the state-owned historical resources are on the Master List, is considered to be a "No State-owned Historical Resources Affected" finding pursuant to [5024 MOU Stipulation XVI.B](#) and PRC 5024(f) for state-owned historical resources not on the Master List, or PRC 5024.5 for resources on the Master List.

State-owned historical resources not on Master List

The "HRCR to District File" section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*agency name*], a state agency, would result in **no effect under PRC 5024(f)** because the historical resource automatically would continue to be protected by all applicable sections of this code. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the PRC 5024 will continue to apply after the transfer. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient state agency."

State-owned historical resources on Master List

The “HRCR to District File” section of the HRCR would include use the same statement as the above but with a different citation:

“...would result in **no effect under PRC 5024.5...**”

The District or CSO retains the HRCR in its files and implements the procedures in [5024 MOU Stipulation IX.A](#) that require the district to notify any interested parties cited in 5024 MOU 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. The District provides a copy of the HRCR to File to CSO for the annual report. Following satisfactory completion of these steps, no further review is required, unless the transfer does not occur. See [Chapter 2 Section 2.8.10.1](#) No State-Owned Historical Resources Affected by Transfer/Relinquishment for additional guidance.

**FINDING OF NO ADVERSE EFFECT – STANDARD CONDITIONS:
CLG**

Transfer/Relinquishment: Certified Local Government

State-owned NRHP/CHL eligible or listed resources—whether on the Master List or not on the Master List—that have been designated under a Certified Local Government⁷ (CLG) preservation ordinance may be transferred to the CLG without other protective measures. These transfers are considered to be a “No Adverse Effect with Standard Conditions: Transfer of CLG-Designated State-owned Historical Resources” (FNAE-SC: CLG) finding pursuant to [5024 MOU Stipulations X.B.1.c](#) and [XVI.C](#), and PRC 5024(f) for state-owned historical resources not on the Master List, or PRC 5024.5 for resources on the Master List.

⁷ A CLG is a 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. The National Park Service certifies the local government as meeting its CLG requirements and the SHPO oversees the CLGs to ensure they continue to meet these requirements.

State-owned historical resources not on Master List

The “HRCR to District File” section of the HRCR⁸ would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*local agency name*], a Certified Local Government, would result in a FNAE-SC: CLG **pursuant to 5024 MOU Stipulations X.1.c and XVI.C.1, and under PRC 5024(f)** because the historical resource automatically would continue to be protected by all applicable sections of this local agency’s preservation ordinance. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*local agency name*] preservation ordinance provides appropriate protection for this historical resource. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient local agency."

State-owned historical resources on Master List

The “HRCR to District File” section of the HRCR would use the same language as above but with different citations:

"... would result in a FNAE-SC: CLG **pursuant to 5024 MOU Stipulations X.1.c and XVI.C.1, and PRC 5024.5** because the historical resource, which is currently on the Master List of Historical Resources..."

The District or CSO retains the HRCR in its files and implements the procedures in [5024 MOU Stipulation IX.A](#) that require the district to notify any interested parties cited in 5024 MOU 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. The District provides a copy of the HRCR to File to CSO for the quarterly report, as outlined in 5024 MOU [Stipulation XIX.E.2](#). Following satisfactory completion of these steps, no further review is required, unless the transfer does not occur.

⁸ For federal undertakings complete “Section 9 Findings for State-Owned Historic Properties, Findings to District File” in the Historic Property Survey Report.

[Stipulations X.B.1.c](#) and [XVI.C](#) of the [5024 MOU](#), as well as [Attachment 5 Section 3](#) contain additional information regarding this type of finding. [Chapter 2 Section 2.8.10.2](#) contains information on processing FNAE-SC: CLG findings.

Transfer: Private/Unknown Owner: CLG-designated Historical Resource

When state-owned historical resources already have been designated under a CLG preservation ordinance, the process is similar to transferring or relinquishing state-owned historical resources to CLG-certified local agencies. The CLG preservation ordinances have provisions to protect locally-designated historical resources, and require that private owners seek approval prior to making any changes or alterations that have the potential to adversely affect designated historical resources.

State-owned historical resources not on Master List

The “HRCR to District File” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*private owner name or other owner when known*] would result in a FNAE-SC: CLG pursuant to **5024 MOU Stipulations X.1.c and XVI.C.1 and under PRC 5024(f)** because the resource is designated as historic by [*local agency name*], a Certified Local Government, under its preservation ordinance. The resource would continue to be protected by all applicable sections of this ordinance. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*local agency name*] preservation ordinance provides appropriate protection for this historical resource. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient private owner or other owner when known."

State-owned historical resources on Master List

The “HRCR to District File” section of the HRCR would use the same language as above but with different citations:

“... would result in a FNAE-SC: CLG pursuant to **5024 MOU Stipulations X.1.c and XVI.C.1 and under PRC 5024.5** because the resource, which is currently on the Master List of Historical Resources...”

The District or CSO retains the HRCR in its files and implements the procedures in [5024 MOU Stipulation IX.A](#) that require the district to notify any interested parties cited in 5024 MOU 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. The District provides a copy of the HRCR to File to CSO for the quarterly report, as outlined in [5024 MOU Stipulation XIX.E.2](#). Following satisfactory completion of these steps, no further review is required, unless the transfer does not occur.

FINDING OF NO ADVERSE EFFECT WITHOUT STANDARD CONDITIONS

Local agencies that are not CLGs do *not* have the responsibilities that are equivalent to state agency responsibilities under PRC 5024, even under CEQA. Not all local agency activities that have the potential for adverse effect are considered projects under CEQA. For instance, there are ministerial activities that are statutorily exempt from CEQA, but have the potential to adversely affect historical resources. If a local agency, for example, does not have a preservation ordinance that requires appropriate board review of demolitions, a demolition permit could be ministerial and statutorily exempt from CEQA. But, that same demolition could result in the destruction of a NRHP-eligible structure, which is an adverse effect. In this situation, transferring a state-owned NRHP-eligible building to a local agency without protective measures may result in an adverse effect. By way of contrast, for state agencies, that same proposed demolition must comply with PRC 5024, the SHPO must be consulted, and prudent and feasible measures to avoid or mitigate the adverse effect must be implemented.

Similarly, a local agency's process for evaluating cultural resources and protecting historical resources is not automatic and is not necessarily equivalent to PRC 5024 regulations. Therefore, prior to disposing of excess property to local agencies through

transfer or route relinquishment, Caltrans needs to follow the procedures outlined in [Chapter 2](#) Sections [2.8.7](#) and [2.8.8](#), including the development of protective measures if the excess parcel or route relinquishment contains NRHP listed/eligible or CHL registered/eligible resources. Caltrans is required to make a reasonable and good faith effort to protect these types of resources. If Caltrans is unable to obtain protective agreements, covenants or conservations easements, then the HRCR, or a supplemental HRCR if the failure occurred after SHPO review, needs to document those efforts, why they failed, and the proposed transfer or relinquishment would be considered an adverse effect that requires mitigation.

When Caltrans is transferring NRHP listed or eligible resources, or CHL register or eligible resources to local agencies, Caltrans PQS need to determine whether the recipient agency has existing historic preservation plan elements and protective ordinances, and needs to coordinate with other Caltrans divisions (e.g., Right of Way and Legal, as appropriate) to develop local agency commitments to protect the historical resources on the site.

The level of local agency historic preservation responsibilities can range from none to quite sophisticated; there is no statewide consistency in what or how local agencies protect historical resources. The transfer of state-owned historical resources to local agencies, under PRC 5024 is considered to have the potential for adverse effect, which can either be a FNAE without Standard Conditions or a Finding of Adverse Effect (FAE).

Therefore, it is necessary to include protective measures in the transfer. Transfers of state-owned historical resources with conservation easements or historical covenants typically are used to obtain a FNAE under PRC 5024(f) for state-owned historical resources that are not on the Master List and under PRC 5024.5 for state-owned historical resources on the Master List. (The 5024 MOU [Stipulation IV.E](#) has a definition of what is and is not on the Master List). Describe proposed protective measures in Section 8 (Mitigation Plan) of the HRCR; the draft commitments are included in the HRCR as attachments. Caltrans PQS may contact the CSO BEPS Chief for assistance with developing appropriate measures, and for sample language for resolutions or historical covenants.

For local governments, proposed mitigation may take the form of a conservation easement or a city council (or board of supervisors) adopted resolution that stipulates

the conditions for preserving, maintaining, and protecting the historical resource. In addition, if the local government has a historic preservation or landmark ordinance, the agreement may stipulate that the receiving government would officially designate the historical resource under its ordinance and provide protections for its preservation and maintenance. If the receiving government does not have an established ordinance, then the preservation agreement would need to stipulate that the municipality will pass a resolution recognizing the property as a historical resource, will preserve and maintain it in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS)⁹ and the CHBC, will consider it a historical resource under CEQA, and, if it was determined NRHP eligible or listed, will consider the resource a historic property for Section 106 purposes.

Transfer/Relinquishment: Local Agency (not CLG) with Preservation Ordinance

Caltrans PQS need to provide a brief description of the recipient local agency's preservation ordinance, e.g. official name, legal citation in the local code, in Section 8 (Mitigation Plan) of the HRCR; the preservation ordinance is included in the HRCR as an attachment, in addition to the document describing the historical resource (e.g., DPR 523 forms, Character-Defining Features form, Historical Resources Evaluation Report).

For transfers of historical resources to local agencies that are not CLGs but have preservation ordinances that are substantially equivalent to the requirements for CLGs, the finding may be a FNAE without standard conditions and would need CSO and for resources on the Master List, SHPO review. However, if Caltrans PQS cultural resources staff certified in the appropriate discipline, CSO or SHPO disagree, treat the finding as an adverse effect, develop the appropriate mitigation measures and follow the process in the [Finding of Adverse Effect and Mitigation Measures](#) section of this exhibit.

⁹ *Secretary of the Interior's Standards for Treatment of Historic Properties (SOIS)*. Caltrans uses the 1995 version by Weeks and Grimmer.

State-owned historical resources not on Master List

The “HRCR to CSO” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*local agency name*] would result in a Finding of No Adverse Effect because the historical resource also is designated as historic under its preservation ordinance. The resource would continue to be protected by all applicable sections of this ordinance. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*local agency name*] preservation ordinance provides appropriate protection for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.1.B.2.a and XVI.C.2 and under PRC 5024(f)**, Caltrans has determined a **Finding of No Adverse Effect**, is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient local agency."

For state-owned historical resources not on the Master List, if CSO does not object within 15 calendar days of receipt the project or activity is not subject to further review unless the transfer does not go through as planned. CSO reports this type of transfer finding in its quarterly report to SHPO as outlined in [5024 MOU Stipulations X.B.2.a](#) and [XIX.E.2](#).

State-owned historical resources on Master List

In addition to citing PRC 5024.5 instead of 5024(f), there is a different citation in the 5024 MOU that is used for these resources. The “HRCR to CSO” section of the HRCR would use the same language as above but state

"...would result in a Finding of No Adverse Effect because the resource, which is currently on the Master List of Historical Resources,.....Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.B.2.c and XVI.C.2, and under PRC 5024.5**, Caltrans has determined a **Finding of No Adverse Effect**, is appropriate, is hereby **notifying CSO and requests SHPO’s concurrence with this finding**... local agency."

For state-owned historical resources on the Master List, if CSO does not object within 15 calendar days of receipt, CSO consults with and forwards the document to SHPO. If SHPO does not comment or object within 30 calendar days of receipt, 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 unless the transfer does not go through as planned.

See [Chapter 2 2.8.10.3](#) No Adverse Effect: Transfer of State-owned Historical Resources for additional guidance. [Stipulations X.B.2](#) and [XVI.C.2](#) of the [5024 MOU](#) contain additional information regarding this type of finding.

Transfer/Relinquishment: Local Agency - No Preservation Ordinance

As mentioned earlier, local agencies do *not* have the responsibilities that are equivalent to state agency responsibilities under PRC 5024, even under CEQA. Therefore, Caltrans must try to transfer the property with protective measures to ensure the preservation of the historical resource that is being transferred or relinquished.

The process for complying with PRC 5024, even with the 5024 MOU in place, may take longer to complete because more effort is involved in developing and obtaining protective measures. As a result, the success or failure to obtain enforceable protective measures may result in either a Finding of No Adverse Effect or a Finding of Adverse Effect for the proposed transfer or relinquishment. However, if Caltrans PQS cultural resources staff certified in the appropriate discipline, CSO or SHPO disagree that there is no adverse effect, treat the finding as an adverse effect, develop the appropriate mitigation measures and follow the process in the [Finding of Adverse Effect and Mitigation Measures](#) section of this exhibit.

Protective measures to avoid adverse effects

The most common measures Caltrans uses to avoid a potential adverse effect to the state-owned historical resource and comply with PRC 5024 are to transfer or relinquish the resource with:

- 1) An adopted city council (or board of supervisors) resolution that stipulates the conditions for preserving, maintaining, and protecting the historic property; or

2) A historical covenant or conservation easement (see [Chapter 7, Section 7.12.7.8](#)).

In both situations, the preservation agreement between Caltrans and the receiving local agency would need to stipulate that the municipality will recognize the property as a historical resource, will preserve and maintain it in accordance with the *SOIS*, will require use of the CHBC for code-related issues, and will require that alterations, additions and demolitions be reviewed by qualified persons who meet the Secretary of the Interior's Professional Qualification Standards. For environmental compliance purposes, the local government resolution also should contain statements that the resource to be transferred or relinquished will be considered a historical resource under CEQA, and, for Section 106 purposes, if the resource was listed or determined eligible or listed, a historic property.

Through the use of a local government resolution or a historical covenant/conservation easement, the finding is likely to be a FNAE without standard conditions that will need to be reviewed by CSO and for resources on the Master List, by SHPO. It all depends on having adequate and enforceable provisions in the resolution, easement or covenant.

Caltrans PQS need to provide a brief description of the draft historical covenant/conservation easement or draft resolution in Section 8 (Mitigation Plan) of the HRCR; the draft document(s) is included in the HRCR as attachments, in addition to the document describing the historical resource (e.g., DPR 523 forms, Character-Defining Features form, Historical Resources Evaluation Report).

[Stipulations X.B.2](#) and [XVI.C.2](#) of the [5024 MOU](#) contain additional information regarding this type of finding. See [Chapter 2 2.8.10.3](#) No Adverse Effect: Transfer of State-owned Historical Resources for additional guidance.

Below are examples of how transfers are treated differently, based on the presence or absence of a local agency preservation ordinance.

CITY A is not a CLG but **has an existing preservation ordinance** that includes

- local eligibility criteria / designation process;
- design review guidelines;
- Preservation Commission and staff who meet professional historic preservation qualifications;
- use of the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (SOIS);
- use of the *California Historical Building Code* (CHBC) on code-related issues;
- public participation process; and
- enforceable penalties for non-compliance.

Protective measures for transferring a state-owned historic building, bridge or archaeological site to City A or recipients other than state or federal agencies might include:

- Attaching a copy of the ordinance to the FNAE, if the resource is already designated.
- Nominate the historical resource under the ordinance prior to transfer if not already designated.
- Obtain a resolution from the city that commits the city to recognize the resource as historic and designate it under City A's preservation ordinance.
- Transfer the historical resource with a historical covenant/conservation easement.

Finding of No Adverse Effect is likely under 5024 MOU Stipulations X.B.2 and XVI.C.2

CITY B is not a CLG and **does not have a preservation ordinance**.

Protective measures for transferring a **NRHP/CHL listed or eligible archaeological site** to City B might include:

- Transferring the site with a permanent conservation easement.
- Obtaining a city resolution committing the city to recognize the site as a historical resource, preserve and maintain it in accordance with the SOIS and the CHBC, consider it a historical resource under CEQA, and consider it as a historic property for Section 106 purposes.
- If a potentially significant site has been identified, (e.g. considered NRHP/CHL eligible for purposes of the transfer), obtaining a commitment from City B that prior to any ground-disturbing activity, a qualified archaeologist will conduct an appropriate level survey to determine whether the site might be NRHP or CRHP eligible, and if it is, City B will commit to using appropriate measures to protect the site, as outlined in CEQA PRC 21083.2.

Protective measures for transferring for a **NRHP/CHL listed or eligible structure** to City B or recipients other than state or federal agencies might include:

- Obtaining a city resolution committing the city to recognize the structure as a historical resource, preserve and maintain it in accordance with the SOIS, require the city to use the CHBC for code-related issues, consider it a historical resource under CEQA, and consider it as a historic property for Section 106 purposes.
- Transferring the structure with a historical covenant/conservation easement.

Finding of No Adverse Effect or Finding of Adverse Effect with Mitigation are possible under 5024 MOU Stipulations X.B.2 or X.C and XVI.D.

The protective measures for both City A and B likely would result in a Finding of No Adverse Effect without Standard Conditions, but which stipulations are cited depends on whether the state-owned historical resource is on the Master List. Pursuant to 5024 MOU [Stipulation X.B.2](#), the District sends the HRCR to CSO for state-owned resources not on the Master List (CSO has 15 calendars from receipt to object), and to CSO to forward to SHPO for state-owned historical resources that are on the Master List (CSO has 15 calendar days from receipt to object; if no objection, CSO forwards to SHPO who has 30 calendar days from receipt to object). For state-owned historical resources, whether or not they are on the Master List, if there is high public interest or controversy, under 5024 MOU [Stipulation X.E](#) the District sends the HRCR to CSO who forwards it to SHPO, who has 30 calendar days to review the finding.

State-owned historical resources not on Master List

In cases where the local agency has no preservation ordinance, the “HRCR to CSO” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*local agency name*] would result in a Finding of No Adverse Effect because the resource will be protected by [*choose applicable instrument*] a historical covenant, conservation easement, resolution adopted by [*name of recipient local agency*]. The resource would continue to be protected by [*choose applicable instrument*] historical covenant, conservation easement, resolution. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*choose applicable instrument*] historical covenant, conservation easement, resolution provides appropriate protection for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.B.2.a and Stipulation XVI.D and under PRC 5024(f)**, Caltrans has determined a **Finding of No Adverse Effect** is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient local government."

For state-owned historical resources not on the Master List, if CSO does not object within 15 calendar days of receipt the project or activity is not subject to further

review unless the transfer does not go through as planned. CSO reports this type of transfer finding in its quarterly report to SHPO as outlined in [5024 MOU Stipulations X.B.2.a](#) and [XIX.E.2](#).

State-owned historical resources on Master List

In addition to citing PRC 5024.5 instead of 5024(f), there is a different citation in the 5024 MOU that is used for these resources. The “HRCR to CSO” section of the HRCR would use the same language as above but state

“... Pursuant to 5024 Memorandum of Understanding **Stipulations X.B.2.c and XVI.D, and under PRC 5024.5**, Caltrans has determined a **Finding of No Adverse Effect**, is appropriate, is hereby **notifying CSO and requests SHPO’s concurrence with this finding...**”

For state-owned historical resources on the Master List, if CSO does not object within 15 calendar days of receipt, CSO forwards the document to SHPO. If SHPO does not object within 30 calendar days of receipt the project or activity is not subject to further review unless the transfer does not go through as planned.

After SHPO has concurred under PRC 5024(f) or 5024.5, Caltrans District PQS need to follow up with District Right of Way to ensure that the resolution has been adopted or that the conservation easement and/or historical covenant has been executed and recorded.

Transfer: Private/Unknown Owner

Private owners are under no obligation to comply with state or local cultural resources laws and regulations, unless their actions include public funding, permits, licenses, etc. that would trigger environmental review. There are activities (e.g. ground-disturbing activities, alterations, demolitions) that could adversely affect historical resources. Therefore, when state-owned historical resources are transferred to a private owner(s), under PRC 5024, the transfer has the potential for adverse effect. Similarly, when Caltrans does not know to whom the property will be transferred, the potential for adverse effects exists.

Prior to transfers to private owners or when the future owner is unknown, Caltrans follows the procedures outlined in [Chapter 2 Sections 2.8.7](#) and [2.8.8](#), including the development of protective measures if the excess parcel or route relinquishment

contains NRHP listed/eligible or CHL registered/eligible resources. Caltrans is required to make a reasonable and good faith effort to protect these types of resources. Caltrans PQS need to develop appropriate protective measures, coordinating with other Caltrans divisions (e.g., Right of Way and Legal, as necessary), nonprofit groups that hold covenants and easements, and the private owner if known. Transfers of state-owned historical resources with conservation easements or historical covenants typically are used to obtain a finding of no adverse effect under the 5024 MOU and PRC 5024(f) for archaeological and non-structural NRHP listed/eligible or CHL registered/eligible historical resources and under PRC 5024.5 for state-owned NRHP listed/eligible or CHL registered/eligible buildings and structures.

If Caltrans is unable to obtain protective agreements, covenants or conservations easements, then the HRCR, or a supplemental HRCR if the failure occurred after SHPO review, needs to document those efforts and why they failed.

Protective measures are described in Section 8 (Mitigation Plan) of the HRCR and the draft commitments are included in the HRCR as attachments. [Chapter 7 Section 7.12.7](#) also contains information on property transfers to private owners. Caltrans PQS may contact the CSO BEPS Chief for assistance with developing these appropriate measures, and for sample language for historical covenants.

Transfer: Private/Unknown Owner: Locally Designated (not CLG) Historical Resource

When Caltrans transfers state-owned historical resources to private owners or when the future owner is unknown, state-owned historical resources that are designated by local agencies that are not CLGs, but that have preservation ordinances that are substantially equivalent to the CLG requirements, the finding is likely a FNAE without standard conditions that will need to be reviewed by CSO and for resources on the Master List, by SHPO. Briefly describe the recipient local agency's preservation ordinance, e.g. official name, legal citation in the local code, in Section 8 (Mitigation Plan) of the HRCR. The preservation ordinance is included in the HRCR as an attachment, in addition to the document describing the historical resource (e.g., DPR 523 forms, Character-Defining Features form, Historical Resources Evaluation Report).

If Caltrans PQS cultural resources staff certified in the appropriate discipline, CSO or SHPO disagree, treat the finding as an adverse effect, develop the appropriate mitigation measures and follow the process in the [Finding of Adverse Effect and Mitigation Measures](#) section of this exhibit.

State-owned historical resources not on Master List

The “HRCR to CSO” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*private owner or name when known*] would result in a Finding of No Adverse Effect because the resource is designated as historic by [*local agency name*] under its preservation ordinance. The resource would continue to be protected by all applicable sections of this ordinance. Therefore, historical covenants or other conditions are not necessary. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*local agency name*] preservation ordinance provides appropriate protection for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.B.2.a and Stipulation XVI.C.2 and under PRC 5024(f)**, Caltrans has determined a **Finding of No Adverse Effect** is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient private or other owner."

For state-owned historical resources not on the Master List, if CSO does not object within 15 calendar days of receipt the project or activity is not subject to further review unless the transfer does not go through as planned. CSO reports this type of transfer finding in its quarterly report to SHPO as outlined in [5024 MOU Stipulations X.B.2.a](#) and [XIX.E.2](#).

State-owned historical resources on Master List

In addition to citing PRC 5024.5 instead of 5024(f), there is a different citation in the 5024 MOU that is used for these resources. The “HRCR to CSO” section of the HRCR would use the same language as above but state

"... Pursuant to 5024 Memorandum of Understanding **Stipulations X.B.2.c and XVI.C.2, and under PRC 5024.5**, Caltrans has determined a **Finding of No**

Adverse Effect, is appropriate, is hereby **notifying CSO and requests SHPO’s concurrence with this finding. ...”**

For state-owned historical resources on the Master List, if CSO does not object within 15 calendar days of receipt, CSO consults with and forwards the document to SHPO. If SHPO does not comment or object within 30 calendar days of receipt, 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 unless the transfer does not go through as planned.

See [Chapter 2 2.8.10.3](#) No Adverse Effect: Transfer of State-owned Historical Resources for additional guidance. [Stipulations X.B.2](#) and [XVI.C.2](#) of the [5024 MOU](#) contain additional information regarding this type of finding.

Transfer: Private/Unknown Owner: Locality with No Preservation Ordinance

When the state-owned historical resource is located within a local agency jurisdiction that either does not have a preservation ordinance or its ordinance does not substantially meet CLG requirements, the process for complying with PRC 5024, even with the 5024 MOU in place, may take longer to complete because more effort is involved in developing and obtaining protective measures. As a result, the success or failure to obtain enforceable protective measures may result in either a Finding of No Adverse Effect or a Finding of Adverse Effect for the proposed transfer or relinquishment. Follow the procedures set forth above in [Transfer/Relinquishment: Local Agency No Preservation Ordinance](#), and its applicable sections, such as the use of historical covenants and conservation easements to justify a FNAE, use of standard mitigation measures for state-owned archaeological sites that are not on the Master List, and measures to mitigate adverse effects to state-owned historical resources.

Protective measures to avoid adverse effects

The most common measure Caltrans uses to avoid a potential adverse effect to state-owned historical resources when transferring to private or unknown future owners and to comply with PRC 5024 is to transfer or relinquish the resource with a historical covenant or conservation easement. In this situation, the preservation agreement between Caltrans and the receiving private or future owner would need to stipulate that all future owners will recognize the property as a historical resource,

will preserve and maintain it in accordance with the *SOIS*, will request use of the CHBC for code-related issues from the local building official, and will require that alterations, additions and demolitions be reviewed by qualified persons who meet the Secretary of the Interior's Professional Qualification Standards.

Through the use of a historical covenant/conservation easement, the finding is likely to be a FNAE without standard conditions that will need to be reviewed by CSO and for resources on the Master List, by SHPO. It all depends on having adequate and enforceable provisions in the resolution, easement or covenant.

Briefly describe the draft historical covenant/conservation easement in Section 8 (Mitigation Plan) of the HRCR; the draft document(s) is included in the HRCR as an attachment(s) in addition to the document describing the historical resource (e.g., DPR 523 forms, Character-Defining Features form, Historical Resources Evaluation Report). However, if Caltrans PQS cultural resources staff certified in the appropriate discipline, CSO or SHPO disagree, treat the finding as an adverse effect, develop the appropriate mitigation measures and follow the process in the [Finding of Adverse Effect and Mitigation Measures](#) section of this exhibit.

For state-owned historical resources not on the Master List, if CSO does not object within 15 calendar days of receipt, the project or activity is not subject to further review unless the transfer does not go through as planned. CSO reports this type of transfer finding in its quarterly report to SHPO as outlined in [5024 MOU Stipulations X.B.2.a](#) and [XIX.E.2](#).

State-owned historical resources not on Master List

The "HRCR to CSO" section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP eligible/listed CHL registered/eligible property*] to [*private or future owner name when known*] would result in a Finding of No Adverse Effect because the resource will be protected by [*choose applicable instrument*] a historical covenant, conservation easement. The resource would continue to be protected by the [*choose applicable instrument*] historical covenant, conservation easement. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the

[choose applicable instrument] historical covenant, conservation easement, resolution provides appropriate protection for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.B.2.a and Stipulation XVI.D and under PRC 5024(f)**, Caltrans has determined a **Finding of No Adverse Effect** is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR will be included as an attachment to the Caltrans letter transferring the property to the recipient private or other owner."

State-owned historical resources on Master List

In addition to citing PRC 5024.5 instead of 5024(f), there is a different citation in the 5024 MOU that is used for these resources. The "HRCR to CSO" section of the HRCR would use the same language as above but state

"... Pursuant to 5024 Memorandum of Understanding **Stipulations X.B.2.c and XVI.D, and under PRC 5024.5**, Caltrans has determined a **Finding of No Adverse Effect**, is appropriate, is hereby **notifying CSO and requests SHPO's concurrence with this finding...**"

For state-owned historical resources on the Master List, if CSO does not object within 15 calendar days of receipt, CSO forwards the document to SHPO. If SHPO does not object within 30 calendar days of receipt the project or activity is not subject to further review unless the transfer does not go through as planned.

After SHPO has concurred under PRC 5024(f) or 5024.5, Caltrans District PQS need to follow up with District Right of Way to ensure that the conservation easement and/or historical covenant has been executed and recorded.

[Stipulations X.B.2](#) and [XVI.C.2](#) of the [5024 MOU](#) contain additional information regarding this type of finding. See [Chapter 2 2.8.10.3](#) No Adverse Effect: Transfer of State-owned Historical Resources for additional guidance.

FINDING OF ADVERSE EFFECT: STANDARD MITIGATION MEASURES FOR ARCHAEOLOGICAL SITES

The [5024 MOU Stipulation X.C.1](#), through the use of a Data Recovery Plan (DRP), streamlines the process for state-owned NRHP/CHL eligible archaeological sites and those that are considered NRHP-eligible for purposes of the project or activity only

and that are not on the Master List. In order to achieve a Finding of Adverse Effect – Standard Mitigation Measures (FAE-SMM), the data recovery plan must include at a minimum all the bullet points outlined in [PRC MOU Attachment 6](#). As described in that attachment, SHPO wants to see “consultation 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.” Therefore, it is essential to incorporate the results of this consultation into the DRP.

State-owned archaeological sites not on Master List

The “HRCR to CSO” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP/CHL eligible or considered eligible site*] to [*local agency name*] would result in a Finding of Adverse Effect with Standard Mitigation Measures and that the adverse effect will be satisfactorily mitigated through the development of a Data Recovery Plan that contains all the elements required by the PRC 5024 Memorandum of Understanding Attachment 6. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*name of Data Recovery Plan*] provides appropriate mitigation for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.C.1 and XVI.D, and under PRC 5024(f)**, Caltrans has determined a **Finding of Adverse Effect with Standard Mitigation Measures** is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR and the Data Recovery Plan will be included as an attachment to the Caltrans letter transferring the property to the recipient local government."

Briefly describe the DRP in Section 8 (Mitigation Plan) of the HRCR; the draft DRP is included in the HRCR as attachments, in addition to the document describing the NRHP/CHL eligible or considered eligible archaeological site.

For state-owned NRHP/CHL eligible or considered eligible archaeological sites not on the Master List, if CSO does not object within 30 calendar days of receipt the project or activity is not subject to further review unless the transfer does not go through as planned. CSO reports this type of transfer finding in its quarterly report to SHPO as outlined in [5024 MOU Stipulations X.C.1.b](#) and [XIX.E.2](#).

[Stipulations X.C.1](#) and [XVI.D](#) of the [5024 MOU](#) contain additional information regarding this type of finding. See [Chapter 2 Section 2.8.7.3](#) Finding of Adverse Effect with Standard Mitigation Measures for additional guidance.

State-owned archaeological sites on Master List

Use of the FAE-SMM is not allowed under the PRC 5024 MOU for state-owned archaeological sites that are on the Master List. See [State-owned Archaeological Sites on Master List](#) below.

FINDING OF ADVERSE EFFECT AND MITIGATION MEASURES

Mitigation measures when adverse effects cannot be avoided

If Caltrans is unable to obtain historical covenants, conservation easements, or other protective agreements, then the HRCR (or a supplemental HRCR if the failure occurred after SHPO review) needs to document those efforts, why they failed, and the proposed transfer or relinquishment would be considered an adverse effect that requires mitigation. The Section 106 regulations at [36 CFR 800.6](#) cites use of mitigation measures to “resolve adverse effects” and CEQA at PRC 15064.5(b) uses terms like “materially impairs,” materially “alters,” and that use of the *SOIS*¹⁰ is “considered as mitigated to a level of less than a significant impact on the historical resource.”

PRC 5024 does not use the terms “resolving adverse effects” or “mitigated to a level of less than a significant impact on the historical resource.” As a result, for compliance with PRC 5024, one can only mitigate adverse effects, not resolve them. Under PRC 5024.5b for historical resources on the Master List, state agencies and the SHPO “shall adopt prudent and feasible measures that will eliminate or mitigate the adverse effects.” As with FNAEs, the process for compliance when there is the

¹⁰ Caltrans uses the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1995), by Weeks and Grimmer, as stipulated in PRC 15064.5(b)(3).

potential for adverse effect depends on the type of state-owned historical resource that is proposed for transfer/relinquishment and whether it is on the Master List. For state-owned historical resources not on the Master List, the FAEs go to CSO for review; for state-owned historical resources on the Master List, the FAEs first go to CSO and CSO forwards the FAE to SHPO.

There is a variety of mitigation measures that can be used to mitigate adverse effects to state-owned historical resources. [Chapter 7 Section 7.12](#) contains brief descriptions. However, for transfers and relinquishments, the feasible and prudent measures that would be most applicable incorporate public interpretation and outreach in addition to heritage documentation, which as described in [Exhibit 7.6](#) Heritage Documentation for HABS/ HAER / HALS, particularly the State-Only Projects section.

State-owned archaeological sites on Master List

The 5024 MOU does not allow the use of the FAE-SMM for state-owned NRHP/CHL listed/registered archaeological sites that are *on* the Master List. Standard Mitigation Measures are only allowed for NRHP- or CHL-eligible state-owned archaeological sites that are *not* on the Master List. However, a DRP that includes all the items listed in [5024 MOU Attachment 6](#) may be used for a Finding of Adverse Effect that does go to SHPO for review. In this case, the HRCR would refer to the DRP and its components as measures to mitigate the adverse effect of the transfer or relinquishment.

Briefly describe the DRP in Section 8 (Mitigation Plan) of the HRCR; the draft DRP is included in the HRCR as an attachment, in addition to the document describing the NRHP/CHL listed archaeological sites.

The “HRCR to CSO” section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of NRHP/CHL listed or registered site*] to [*local agency name*] would result in a Finding of Adverse Effect and that the adverse effect will be satisfactorily mitigated through the development of a Data Recovery Plan. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the [*name of Data Recovery Plan*] provides

appropriate mitigation for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.C.2.b and XVI.D and under PRC 5024.5**, Caltrans has determined a **Finding of Adverse Effect** is appropriate and is hereby **notifying CSO and requests SHPO's concurrence with this finding**. A copy of this HRCR and the Data Recovery Plan will be included as an attachment to the Caltrans letter transferring the property to the recipient local government."

The District processes the HRCR as described in [Chapter 2 Section 2.8.7.2. Stipulations X.C.2.b and XVI.D](#) of the 5024 MOU contain additional information regarding this type of finding.

State-owned historical resources not on Master List

The FAE for all other state-owned historical resources that are not on the Master List will require appropriate mitigation measures that are briefly discussed in Section 8 (Mitigation Plan) of the HRCR; the draft mitigation measures are included in the HRCR as attachments, in addition to the document describing the historical resource(s) to be transferred or relinquished.

The "HRCR to CSO" section of the HRCR would include a statement that

"Caltrans has determined that the transfer of the [*name of the historical resource*] to [*local agency name*] would result in a Finding of Adverse Effect and that the adverse effect will be satisfactorily mitigated through the mitigation measures included as attachments to this HRCR. [*Name of Caltrans PQS*], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) [*Indicate applicable Principal PQS level*] and has the appropriate education and experience, has reviewed this proposed transfer and determined that the mitigation measures described in [*name of HRCR attachment*] provides appropriate mitigation for this historical resource. Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.C.2.a and XVI.D and under PRC 5024(f)**, Caltrans has determined a **Finding of Adverse Effect** is appropriate and is hereby **notifying CSO of this finding**. A copy of this HRCR and the mitigation measures will be included as an attachment to the Caltrans letter transferring the property to the recipient local government."

State-owned historical resources on Master List

The FAE for all other state-owned historical resources that are on the Master List will require appropriate mitigation measures that are briefly discussed in Section 8 (Mitigation Plan) of the HRCR; the draft mitigation measures are included in the HRCR as attachments, in addition to the document describing the historical resource(s) to be transferred or relinquished.

In addition to citing PRC 5024.5 instead of 5024(f), there is a different citation in the 5024 MOU that is used for these resources. The “HRCR to CSO” section of the HRCR would use the same language as above but state

“... Pursuant to PRC 5024 Memorandum of Understanding **Stipulations X.C.2.b and XVI.D, and under PRC 5024(f)**, Caltrans has determined a **Finding of Adverse Effect** is appropriate and is hereby **notifying CSO and requests SHPO’s concurrence with this finding...**”

The District processes the HRCR as described in [Chapter 2 Section 2.8.7.2](#). [Stipulations X.C.2 a](#)¹¹, [X.C.2.b](#)¹², and [XVI.D](#) of the 5024 MOU contain additional information regarding this type of finding.

COMBINED DOCUMENTATION

As outlined in [5024 MOU Stipulation X.D](#), The SHPO consultation on eligibility and the Caltrans determination of effect under PRC 5024(f) and 5024 MOU [Stipulations X](#) and [XVI](#) may be combined in one HRCR, pursuant to 5024 MOU [Stipulation X.D](#). Keep in mind that the while review times may be concurrent, SHPO review times for eligibility, and Caltrans’ review times for findings of effect and proposed mitigation measures run sequentially.”

PUBLIC INTEREST OR CONTROVERSY

When effects to state-owned historical resources—including transfers of excess parcels and route relinquishments—are highly controversial or there is substantial public interest in the effects on these resources, the District forwards the FNAE or the FAE with proposed mitigation measures to CSO for review and CSO forwards the

¹¹ For state-owned historical resources not on the Master List.

¹² For state-owned historical resources on the Master List.

finding(s) to SHPO for notification pursuant to [5024 MOU Stipulation X.E](#) under either PRC 5024(f)¹³ or PRC 5024.5¹⁴ as applicable, and request SHPO's comments. See [Chapter 2 Section 2.8.7.3](#) and [5024 MOU Stipulation X.E](#) for additional guidance.

The HRCR and the transmittal letter to CSO and to SHPO must clearly describe the nature of the disagreement or objection regarding the proposed transfer or relinquishment, the type of Caltrans finding, and cite that Caltrans is requesting SHPO's comments pursuant to [5024 MOU Stipulation X.E](#) and PRC 5024(f) or PRC 5024.5, as applicable. Attachments should include any correspondence, communications, articles, or documents or other media relating to the public interest or controversy.

DISAGREEMENTS AND OBJECTIONS

For state-owned historical resources that are not on the Master List, if CSO disagrees or objects to the FNAE without standard conditions or to the FAE within the times outlined in [Chapter 2 Sections 2.8.6.2](#) and [2.8.7.2](#) and the issue(s) cannot be resolved, CSO must consult with SHPO under [5024 MOU Stipulation X.F](#) for no more than 30 calendar days to come to an agreement. In this situation the SHPO's comments are advisory. See [Chapter 2 Section 2.8.7.5](#).

For state-owned historical resources that are on the Master List, if CSO or SHPO disagrees or objects to the FNAE without standard conditions or to the FAE within the time frames outlined in [Chapter 2 Sections 2.8.6.2](#) and [2.8.7.2](#) and the issue(s) cannot be resolved, CSO must consult with SHPO under [5024 MOU Stipulation X.F](#) for no more than 30 calendar days to come to an agreement. One caveat to keep in mind is that when Caltrans and the SHPO disagree on the effects or proposed mitigation measures for state-owned historical resources on the Master List and SHPO determines that the disagreement cannot be resolved, the SHPO shall, by law [PRC 5024.5(d)], request the Office of Planning and Research (OPR) to mediate the disagreement. OPR's decision is final and binding. See [Chapter 2 Section 2.8.7.5](#).

The HRCR and the transmittal letter to CSO and to SHPO must clearly describe the nature of the public interest or controversy regarding the proposed transfer or

¹³ For state-owned historical resources not on the Master List.

¹⁴ For state-owned historical resources on the Master List.

relinquishment, the type of Caltrans finding, and cite that Caltrans is requesting SHPO's comments pursuant to [5024 MOU Stipulation X.F](#) and PRC 5024(f) or PRC 5024.5, as applicable. Attachments should include any correspondence, communications, articles, or documents or other media relating to the public interest or controversy.

LEGISLATIVE APPROVAL FOR NRHP LISTED STATE-OWNED RESOURCES

If the transfer of a Caltrans-owned NRHP listed built-environment property to another public entity would result in an adverse effect, compliance with [PRC 5027](#) is required. This entails legislative approval when state agencies transfer NRHP-listed buildings or structures to another public agency when the transfer would result in demolition, destruction or significant alteration of the NRHP-listed building or structure. [Chapter 2](#) of this volume contains a discussion of this section of the code. However, transfers that include “restoration to preserve or enhance” the historical values of this type of resource, would not trigger compliance with PRC 5027.

Very few Caltrans-owned buildings or structures are actually listed in the NRHP, but should this situation arise, under PRC 5024.5, Caltrans must consult with the SHPO *early* in the planning process; consultation needs to occur before the legislation is passed.

Caltrans should be consulting with SHPO before the legislation is introduced. This allows time during the compliance process to determine whether there is an alternative to demolition, destruction or alteration, as well as to identify mitigation measures, should avoidance be imprudent or unfeasible.

As outlined in PRC 5024.5, Caltrans must consult with SHPO as soon as possible so that PRC 5024 compliance is complete and any mitigation measures are in place, or included in the proposed legislation.

COMPLETING THE HRCR

Complete Sections 1 through 4 of the HRCR, to the level appropriate for the type(s) of cultural resources that are on the excess parcel(s) or property to be transferred or relinquished.

Under Sections 5 and 6 (Exempted resources/No CEQA historical resources and CEQA historical resources identified), the most commonly checked box would be "N/A" because the majority of parcels likely will not have any cultural resources, or the resources are exempt from evaluation. If CEQA does not apply, Caltrans is not required to *evaluate* the resources pursuant to CEQA 15064.5(a)(4). However, if in the course of doing the required PRC 5024 background research, previously evaluated resources are identified, Caltrans discloses that fact by checking the appropriate box(es) in Section 5 (Exempt from Evaluation/No CEQA Historical Resources Identified), and listing those resources. Similarly, check the appropriate box(es) in Section 6 (CEQA Historical Resources Identified) and list those resources. If, in the course of background research, locally designated resources are identified, these also are reported in Section 6.

If there are state-owned NRHP/CHL listed or eligible resources, in Section 8 (Mitigation Plan) briefly describe Caltrans' efforts to protect them, list the measures, and refer to the appropriate attachments.

Under Section 9 (State-owned Historical Resources Findings), check all the applicable findings. Attach the appropriate documentation and obtain the appropriate signatures (Sections 10 and 11).

PROPERTY TRANSFER DOCUMENTS AND LETTERS

District PQS should coordinate with District Right-of-Way staff to ensure that any the documents and transmittal letters contain the appropriate language to address the historic nature of the NRHP/CHL listed or eligible resources on the property, including any environmental commitments made in compliance with PRC 5024. As with any legal document, staff should seek Caltrans legal counsel on the wording and legality of the transfer documents.

After environmental compliance is complete, Caltrans prepares a transfer transmittal letter to the new owner. The letter and protection documents (e.g., historical covenants with assignment assumption agreements, conservation easements, city resolutions, or cooperative agreements) identify by name(s) of any NRHP listed/eligible or CHL registered/eligible resources on the property. Likewise, in the interest of full disclosure, Caltrans identifies in the letter whether the property contains any historical resources under CEQA, such as locally designated, California

Register listed/eligible resources, or potentially NRHP-eligible archaeological sites. The letter also summarizes the protections that are conditions of the transfer and that are explained more fully in the transfer documents themselves; these will vary depending on who will be the new owner(s). A copy of the HRCR is attached to the transfer transmittal letter.

Federal Agencies

In addition to identifying the historical resources on the property, the transfer transmittal letter to the federal agency also states that because the resources on the property are NRHP listed or eligible, any actions or projects affecting them are subject to Section 106 and Section 110 of the National Historic Preservation Act and that for this reason, no other protections are necessary.

State Agencies

In addition to identifying the historical resources on the property, the transfer transmittal letter to the state agency also states that because the resources on the property are NRHP listed or eligible or are CHL-register or eligible, any actions or projects affecting them continue to be subject to California Public Resources Code 5024, and as applicable, CEQA, and that for this reason, no other protections are necessary.

Local Agencies

In addition to identifying the historical resources on the property, the transfer transmittal letter to the local agency also includes a summary of the protective measures and commitments that are conditions of the transfer. Depending on the type of transfer and whether the local agency has a preservation ordinance with protections similar to PRC 5024 (e.g., use of the Secretary of the Interior's Standards for the Treatment of Historic Properties, application of the California Historical Building Code), the summary would identify provisions in a city or county resolution, in a cooperative agreement between Caltrans and the agency, official adoption in the local ordinance, conservation easement, or historical covenant.

Private Owners

In addition to identifying the historical resources on the property, the transfer transmittal letter to the private owner – with a copy to the local jurisdiction and the local historical society or historic preservation organization, if there is one– also summarizes the provisions of the historical covenant and assignment assumption

agreement, conservation easement, or other measures that are conditions of the transfer.

POST TRANSFER: COMPLETING PRC 5024 COMPLIANCE

The Caltrans Standard Environmental Reference (SER) Volume 2 – Cultural Resources, [Chapter 2 Section 2.8.10.5](#): Post Transfer – Completing PRC 5024 Compliance, contains guidance for follow-up notification to SHPO when Caltrans has completed the transfer of ownership for NRHP listed or eligible or CHL registered or eligible resources. The finalized protection documents mentioned in Section 2.8.10.5 that go to SHPO refer to copies of the officially recorded covenants/Assignment Assumption Agreements or conservation easements with the Office of the County Recorder’s stamp, or officially adopted resolutions with the local government officials’ signatures.

Recording requested by:
DEPARTMENT OF TRANSPORTATION
When recorded, Mail to
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
[District Office Address]
[City, State and Zip Code]
Attn: R/W Property Services

Space Above Line For Recorder's Use

HISTORICAL COVENANT AND NOTICE OF RESTRICTIONS

Agreement No. XXXX

This HISTORICAL COVENANT AND NOTICE OF RESTRICTIONS (this “Historical Covenant”) is entered into this _____ day of _____, 20XX, by and between *New Owner's Name*, GRANTEE under Director’s Deed DD **XXXXXXXXXXXX** (collectively, “GRANTEE”) and the STATE OF CALIFORNIA, acting by and through its Department of Transportation (“DEPARTMENT/GRANTOR”),

A. Whereas, GRANTEE is or will become the owner of a parcel of real property which is included in/determined to be eligible for inclusion on the National Register of Historic Places and is listed in the California Register of Historical Resources located at *Street or other physical address*, City of *city name*, County of *County name*, State of California, more particularly described below and hereinafter referred to as “the PROPERTY”:

Insert legal property description here.

B. Whereas, the PROPERTY possesses significant historical value and characteristics that are of great importance to GRANTEE, the people of *County name* County, and the people of the State of California; and

C. Whereas, GRANTEE and DEPARTMENT/GRANTOR desire and intend that the historical values and characteristics of the PROPERTY be preserved, protected, enhanced and retained in perpetuity.

Page _ of _ Pages

Every signatory initials each page here → _____

Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Historical Covenant Template

Add historic property address here

NOW, THERFORE, to assure the preservation, protection, enhancement and retention of the historic value and characteristics of the PROPERTY, GRANTEE hereby voluntarily covenants on behalf of itself and all successive owners of the PROPERTY to DEPARTMENT/GRANTOR and its successors and assigns, for good and valuable consideration, including of their mutual promises and covenants, the receipt and sufficiency of which is hereby acknowledged, to do or refrain from doing the following with respect to the PROPERTY:

1. GRANTEE and GRANTEE’s successors and assigns shall maintain and preserve all original exterior and interior architectural features and fixtures, hereinafter referred to as “Character Defining Features,” listed and more particularly described below:

INTERIOR FEATURES TO BE PROTECTED:

- ***[List CDFs here. It is likely there will be few or no CDFs for contributing properties to districts, but may be more for individually eligible properties.]***
-

EXTERIOR FEATURES TO BE PROTECTED:

- ***[List CDFs here.]***
-

2. In order to preserve and enhance those Character Defining Features that make the PROPERTY eligible for inclusion on the National Register of Historic Places, and listed in the California Register of Historical Resources GRANTEE and GRANTEE’s successors and assigns shall preserve and maintain the PROPERTY in accordance with the recommended approaches set forth in The Secretary of the Interior’s Standards for the Treatment of Historic Properties, found at 36 Code of Federal Regulations, Part 68, and all amendments or modifications thereto.
3. Without express prior written permission executed by a fully authorized representative of DEPARTMENT/GRANTOR or its’ assignee, or their successors or assigns, which will not be unreasonably withheld, GRANTEE or GRANTEE’s successors and assigns shall not undertake any type of construction, alteration, remodeling, relocation or demolition of the PROPERTY which would affect the Character Defining Features of the PROPERTY.

Page _ of _ Pages

Add historic property address here

4. GRANTEE and GRANTEE's successors and assigns shall permit DEPARTMENT/GRANTOR and/or its assignee, at time of sale or transfer, at time of any application for any building permit, or at any time chosen by DEPARTMENT/GRANTOR and/or its assignee to inspect the PROPERTY for the purpose of ascertaining that the obligations and duties set forth herein are being observed.
5. In the event of a violation of this Covenant, and in addition to any remedy now or hereafter provided by law, DEPARTMENT/GRANTOR or DEPARTMENT/GRANTOR's assignee, may, as allowed by law and following thirty (30) days prior written notice to GRANTEE or GRANTEE's successors and assigns, initiate legal action or proceedings to enjoin said violation and to require the remediation of any changes made to the features, spaces or spatial relationships characterizing the historic aspects of the PROPERTY.
6. This Historical Covenant shall run with the PROPERTY and be binding upon DEPARTMENT/GRANTOR and GRANTEE, and upon DEPARTMENT/GRANTOR's and GRANTEE's respective successors and assigns. GRANTEE and GRANTEE's successors and assigns shall include this Historical Covenant either verbatim or by express reference thereto, in any deed or other legal instrument by which fee simple title or any other lesser estate in the PROPERTY or any part thereof is transferred or otherwise passes. Said deed or other legal instrument shall be recorded in the office of the **County name** County Recorder. The failure of GRANTEE or of GRANTEE's successors and assigns to comply with this provision shall not impair the validity of this Historical Covenant or limit its enforceability in any way. Any successors in interest or assigns of GRANTEE, by acceptance of a deed, lease or other document purporting to convey an interest in the Property, shall be deemed to have consented to, reaffirmed and agreed to be bound by all of the terms, covenants, restrictions and conditions of this Historical Covenant.
7. The failure of DEPARTMENT/GRANTOR or DEPARTMENT/GRANTOR's assignee to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right of remedy at any other time.
8. GRANTEE, for itself and on behalf of its successors and assigns hereby agrees and acknowledges that neither DEPARTMENT/GRANTOR nor

Page _ of _ Pages

Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Historical Covenant Template

Add historic property address here

DEPARTMENT/GRANTOR's assignee shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by GRANTEE, its heirs, successors, and assigns, under or in connection with their obligations, duties or responsibilities set forth in this Covenant.

9. It is understood and acknowledged that DEPARTMENT/GRANTOR, as set forth in the Assignment and Assumption Agreement effective on **date**, has permanently assigned, transferred, and released all of its obligations, responsibilities, and any liabilities set forth in this Historical Covenant to **[Name of organization that will be the Assignee monitoring the covenant]**, its successors and assigns. Further, **[Name of organization that will be the Assignee monitoring the covenant]** as DEPARTMENT/GRANTOR's assignee, has agreed to and will assume and completely and timely perform, comply with and discharge, each and every obligation, covenant, representation, warranty, duty and liability of DEPARTMENT/GRANTOR as described herein.
10. Subsequent to execution of this Historical Covenant by all parties hereto, this Historical Covenant shall be recorded in the office of the **County name** County Recorder.
11. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
12. Execution of the Historical Covenant by GRANTEE shall constitute conclusive evidence that GRANTEE has read and understood the contents thereof, and agrees to be bound by the foregoing provisions, conditions, restrictions, and assignment, and to perform the obligations herein set forth.
13. GRANTEE acknowledges that as buyers of the PROPERTY they have also entered into a Right to Purchase Agreement (RTPA) dated **date**, which is incorporated herein by this reference, pursuant to Government Code 54235, et. seq. That RTPA places certain additional restrictions on the use of the PROPERTY including, but not limited to, the requirement that GRANTEE obtains written approval from the DEPARTMENT/GRANTOR prior to commencing any substantial repairs to that said property. GRANTEE hereby acknowledges and agrees that the provisions of both the RTPA and this Historical Covenant apply to PROPERTY with regard to the Character Defining Features. Furthermore, in the event that the RTPA and this Historical Covenant

Page _ of _ Pages

Add historic property address here

conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the PROPERTY.

14. The following definitions will be utilized for each of the terms listed :
 - a.) The words “*preserve*”, “*preserving*”, and/or “*preservation*” is defined as the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project as set forth in Title 36 Code of Federal Regulations (CFR) Part 68 Sec. 68.2 Definitions.
 - b.) The words “*rehabilitate*”, “*rehabilitating*”, and/or “*rehabilitation*” are defined as the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values as set forth in 36 CFR Part 68.2.
 - c.) The word “*integrity*” is defined as the ability of a property to convey its significance. The seven aspects that combined produce integrity are location, design, setting, materials, workmanship, feeling, and association as set forth in the U.S. Department of the Interior National Register Bulletin 15, *How to Apply the National Register Criteria for Evaluation*.
15. GRANTEE shall at all times maintain insurance on the PROPERTY at a level equal to 100% of replacement cost and shall provide that such insurance policy names the STATE OF CALIFORNIA, Department of Transportation, and **Name of organization that will be the Assignee monitoring the covenant**, their successors and assigns, as additionally insured parties.
16. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement.
17. This Agreement shall be deemed effective upon the last of the dates that DEPARTMENT/GRANTOR and GRANTEE sign, which is **date**.

Page _ of _ Pages

Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Historical Covenant Template

[NAME OF NEW PROPERTY OWNER IN CAPS]

Grantee

Date

[NAME OF NEW PROPERTY OWNER IN CAPS]

Grantee

Date

[NAME OF DIST. DIRECTOR OR PERSON DELEGATED TO SIGN FOR DIRECTOR IN CAPS]

[Person's Title]

District **[number]** **[Appropriate Division name]**

State of California Department of Transportation

Date

[NAME OF RESPONSIBLE R/W MANAGER IN CAPS]

[Title and, if appropriate, R/W Region]

State of California Department of Transportation

Approved as to Form and Procedure:

Date

[NAME OF ATTORNEY APPROVING DOCUMENT IN CAPS]

Attorney

State of California Department of Transportation

Acknowledged by:

Date

[NAME OF PERSON, TITLE FROM ORGANIZATION IN CAPS]

[Name of organization monitoring the covenant]

Date

(Notary Acknowledgments must be attached per Civil Code Section 1180 et seq)

*Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Assignment and Assumption Agreement Template*

**Recording Requested by
DEPARTMENT OF TRANSPORTATION**

When recorded, Mail to
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

*[District Office Address]
[City, State and Zip Code]*

Attn: R/W Property Services

Space Above Line For Recorder's Use

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT (this "AAA"), is entered into this _____ day of _____, 20**XX**, by and between the STATE OF CALIFORNIA, acting by and through its Department of Transportation ("DEPARTMENT/ASSIGNOR") and *[Name of organization that will be the Assignee monitoring the covenant]*, a *[State whether it is a California non-profit corporation, type of local government entity (e.g., city, county), or type of California Native American tribe (e.g., federally recognized or non-federally recognized and on Native American Heritage Commission's contact list)]* ("ASSIGNEE").

RECITALS

Whereas, *New Owner's Name* are or will become the owners of a parcel of real property, which has been determined eligible for inclusion on the National Register of Historic Places, and is listed in the California Register of Historical Resources located at *Street or other physical address*, City of *City name*, County of *County name*, State of California, more particularly described below, and hereinafter referred to as "the PROPERTY":

Insert legal description here

B. Whereas, *New Owner's Name* and DEPARTMENT/ASSIGNOR are parties to a Historical Covenant and Notice of Restrictions Agreement, Agreement #**XXXX**, entered into on date, (the "Historical Covenant"), which is incorporated herein by this reference, wherein *New Owner's Name* agreed to do or refrain from doing particular things to the PROPERTY, to assure the preservation, protection, enhancement and retention of the historic characteristics of said *Address of Historical Resource* property. Under the Historical Covenant, DEPARTMENT/ASSIGNOR has taken on certain duties, rights and obligations relative to the PROPERTY; and

Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Assignment and Assumption Agreement Template

Add historic property address here

C. Whereas, DEPARTMENT/ASSIGNOR, as that covenantee in the Historical Covenant, desires to now assign to ASSIGNEE all of DEPARTMENT/ASSIGNOR's duties, rights and obligations thereunder and ASSIGNEE desires to assume DEPARTMENT/ASSIGNOR's rights duties, and obligations under the Historical Covenant; and

D. Whereas, DEPARTMENT/ASSIGNOR intends to pay a one-time **service fee or endowment** in the amount of **Amount** dollars (\$**XXXXX**) to ASSIGNEE for ASSIGNEE assuming in perpetuity all of the DEPARTMENT/ASSIGNOR's duties, rights and obligations under the Historical Covenant.

NOW, THEREFORE, in consideration of the foregoing recitals, which are specifically incorporated into this AAA, and other good and valuable consideration, receipt of which is hereby acknowledged, DEPARTMENT/ASSIGNOR and ASSIGNEE hereby agree as follows:

1. DEPARTMENT/ASSIGNOR hereby assigns and delegates all of DEPARTMENT/ASSIGNOR's obligations, responsibilities, and duties in and to the Historical Covenant to ASSIGNEE. ASSIGNEE hereby assumes and agrees to completely and timely perform, comply with and discharge, each and every obligation, covenant, representation, warranty, indemnification, duty and liability of DEPARTMENT/ASSIGNOR under the Historical Covenant.

2. That **New Owner's Name**, as the buyers of the PROPERTY have also entered into a Right to Purchase Agreement (RTPA) dated **date**, which is incorporated herein by this reference, pursuant to Government Code 54235, et. seq. That RTPA places certain additional restrictions on the use of the PROPERTY, including, but not limited to, the requirement that Buyer shall not add any substantial improvements to the PROPERTY without the prior express written consent of the DEPARTMENT/ASSIGNOR. ASSIGNEE and DEPARTMENT/ASSIGNOR hereby acknowledge and agree that the provisions of both the RTPA and the Historical Covenant apply to the PROPERTY. Furthermore, in the event that the RTPA and the Historical Covenant conflict, the more restrictive provision of the two agreements shall apply in order to give the greatest protection to the PROPERTY. Finally, DEPARTMENT/ASSIGNOR and ASSIGNEE agree that Notwithstanding Provision 1 above, DEPARTMENT/ASSIGNOR has retained all of the rights, duties and obligations described and set forth in that RTPA.

3. As a condition of ASSIGNEE's acceptance of this AAA and all of the obligations, covenants, agreements, conditions of the Historical Covenant that will now be performed or observed by ASSIGNEE in perpetuity, DEPARTMENT/ASSIGNOR will pay ASSIGNEE a

Page __ of __

*Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Assignment and Assumption Agreement Template*

Add historic property address here

one-time *service fee or endowment* in the amount of *amount* dollars (\$*XXXXXX.XX*) (the “*Service Fee or Endowment*”).

4. In the event that ASSIGNEE is unable to satisfy its obligations, duties and responsibilities as required by this AAA and the Historical Covenant, ASSIGNEE agrees to notify the DEPARTMENT/ASSIGNOR in writing within *XX* calendar days of having said knowledge of its inability to satisfy those said obligations, duties and responsibilities. ASSIGNEE may then, with DEPARTMENT/ASSIGNOR’s prior written approval, assign its interest in this AAA and the Historical Covenant, as well as transfer the remainder of the *Service Fee or Endowment*, including any interest accrued thereon, if any, to its ASSIGNEE, along with all conditions, obligations and duties set forth in this AAA and the Historical Covenant. ASSIGNEE acknowledges that the DEPARTMENT/ASSIGNOR expressly reserves the right to approve of the new ASSIGNEE. Preference will be given to a qualified agency or organization which has a board of directors, staff, or consultants with practical knowledge of the approaches set forth in “The Secretary of the Interior’s Standards for the Treatment of Historic Properties.”

5. Neither DEPARTMENT/ASSIGNOR nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by ASSIGNEE or ASSIGNEE’s successors or assigns under or in connection with any work, authority or jurisdiction delegated to ASSIGNEE, its successors or assigns under this AAA. DEPARTMENT/ASSIGNOR reserves the right to represent itself in any litigation in which DEPARTMENT/ASSIGNOR’s interests are at stake.

6. This AAA shall be governed by and construed in accordance with the laws of the State of California. Time is of the essence of this AAA. This AAA shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. This AAA constitutes the entire agreement of the parties hereto on the matters covered. The invalidity or unenforceability of any provision(s) of this AAA shall not render any other provision(s) invalid or unenforceable.

7. This AAA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement.

8. This AAA shall be deemed effective upon the last of the dates that DEPARTMENT/ASSIGNOR and ASSIGNEE sign, which is *date*.

IN WITNESS WHEREOF, DEPARTMENT/ASSIGNOR and ASSIGNEE have executed this AAA as set forth below.

Exhibit 2.17: Excess Property Transfers and Route Relinquishments
Sample Assignment and Assumption Agreement Template

Add historic property address here

[NAME OF PERSON, TITLE FROM ORGANIZATION IN CAPS]
[Name of organization monitoring the covenant]

Date

Approved as to Form and Procedure:

[NAME OF ATTORNEY APPROVING DOCUMENT IN CAPS]

Date

Attorney
State of California Department of Transportation

[NAME OF DIST. DIRECTOR OR PERSON DELEGATED TO SIGN FOR DIRECTOR IN CAPS]

Date

[Person's Title]
District **[number]** **[Appropriate Division name]**
State of California Department of Transportation

[NAME OF RESPONSIBLE R/W MANAGER IN CAPS]
[Title and, if appropriate, R/W Region]

Date

State of California Department of Transportation

Acknowledged by:

[NAME OF NEW PROPERTY OWNER IN CAPS]

Grantee

[NAME OF NEW PROPERTY OWNER IN CAPS]

Grantee

(Notary Acknowledgements must be attached per Civil Code Section 1180 et seq)

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Exhibit 3.1: Definitions of Consultation

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Exhibit 3.1: Definitions of Consultation

Various federal and state laws and regulations define the term "consultation" slightly differently, but common among them is that consultation is a means between interested parties to obtain and consider views and to exchange ideas and information. Often consultation is a defined process to reach an agreement, a consensus, and/or an informed decision.

The term consultation also is used frequently to describe the interaction between the federal government and federally recognized Indian tribes. As sovereign governments, and therefore government entities, federally recognized Indian tribes are involved in transportation issues above and beyond historic preservation concerns. The interaction between the federal government and federally recognized Indian tribes often is referred to as government-to-government consultation, or in the vernacular as "Consultation" with a capital "C." Consultation, particularly for historic preservation issues under the Section 106 regulations, often is referred to as consultation with a small "c," since it is in reference to consultation with all parties, not just tribes.

Definitions of consultation are found in the federal regulations for complying with Section 106 of the National Historic Preservation Act (NHPA) as amended and transportation planning law, and in state law as it pertains to consultation on General Plans between Native American Indian tribes and cities and counties; they are quoted below. While these definitions lay the foundation for a common understanding of the consultation concept, Caltrans cites the appropriate definition when applicable. For example, when discussing Section 106, refer to the definition contained in [36 CFR 800.16\(f\)](#).

Federal regulations and guidelines

National Historic Preservation Act Section 106 Definitions

The federal regulations that implement Section 106 of NHPA (16 USC 470) define consultation as it relates to historic preservation. The definition is contained in [36 CFR 800.16\(f\)](#):

"Consultation means the process of seeking, discussing, and considering the views of other participants, and where feasible seeking agreement with them regarding matters arising in the section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pur-

suant to the National Historic Preservation Act” provide further guidance on consultation.”

Secretary of the Interior’s Standards and Guidelines

The definition for consultation in 36 CFR 800 refers to the "[Secretary of the Interior’s Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act](#)” for further guidance on consultation. That reference is to Standard 5 and its concomitant Guidelines: Consultation General Principles:

Standard 5

"An agency consults with knowledgeable and concerned parties outside the agency about its historic preservation related activities. [Sections 110(a)(2)(D) and (E)(ii)]."

Guidelines: Consultation General Principles

"(a) Consultation means the process of seeking, discussing, and considering the views of others, and, where feasible, seeking agreement with them on how historic properties should be identified, considered, and managed. Consultation is built upon the exchange of ideas, not simply providing information. Whether consulting on a specific project or on broader agency programs, the agency should:

- (1) make its interests and constraints clear at the beginning;
- (2) make clear any rules, processes, or schedules applicable to the consultation;
- (3) acknowledge others' interests and seek to understand them;
- (4) develop and consider a full range of options; and,
- (5) try to identify solutions that will leave all parties satisfied.

(b) Consultation should include broad efforts to maintain ongoing communication with all those public and private entities that are interested in or affected by the agency's activities and should not be limited to the consideration of specific projects.

(c) Consultation should be undertaken early in the planning stage of any Federal action that might affect historic properties. Although time limits may be necessary on specific transactions carried out in the course of consultation (e.g., the time allowed to respond to an inquiry), there should be no hard-and-fast time limit on consultation overall. Consultation on a specific undertaking

should proceed until agreement is reached or until it becomes clear to the agency that agreement cannot be reached.

(d) While specific consultation requirements and procedures will vary among agencies depending on their missions and programs, the nature of historic properties that might be affected, and other factors, consultation should always include all affected parties. Section 110(a)(2)(D) specifies that an agency's preservation-related activities be carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations, and the private sector. Section 110(a)(2)(E)(ii) requires an agency's procedures for compliance with section 106 to provide a process for the identification and evaluation of historic properties and the development and implementation of agreements, in consultation with SHPOsⁱ, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate. In addition to having a formal role under the Act, SHPOs and Tribal Preservation Officers can assist in identifying other parties with interests, as well as sources of information.

(e) The agency needs to inform other agencies, organizations, and the public in a timely manner about its projects and programs, and about the possibility of impacts on historic resources of interest to them. However, the agency cannot force a group to express its views, or participate in the consultation. These groups also bear a responsibility, once they have been made aware that a Federal agency is interested in their views, to provide them in a suitable format and in a timely fashion.

(f) Agency efforts to inform the public about its projects and programs and about the possibility of impacts on historic resources must be carried out in a manner consistent with the provisions of section 304 of the Act, which calls for withholding from disclosure to the public information on the location, character, or ownership of a historic resource where such disclosure may:

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resource; or,
- (3) impede the use of a traditional religious site by practitioners.

ⁱ State Historic Preservation Officers

Guidelines: Consultation with Native Americans

(g) Inclusion of Indian tribes and Native Hawaiian organizations in the consultation process is imperative and is specifically mandated by the Act [Sec. 110(a)(2)(D)]:

- (1) properties with traditional religious and cultural importance to Native American and Native Hawaiian groups may be eligible for the National Register; such properties must be considered, and the appropriate Native American and/or Native Hawaiian groups must be consulted in project and program planning through the section 106 review process (see NHPA Sec. 101(d)(6)(A&B);
- (2) Section 101(d)(2) of the Act provides that Indian tribes may assume State Historic Preservation Officer responsibilities on tribal lands, when approved to do so by the Secretary of the Interior. In those cases where a tribe has assumed such responsibilities on tribal lands, a Federal agency must consult with the tribe instead of the SHPO, in order to meet agency responsibilities for consultation pursuant to the Act;
- (3) the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) establishes consultation requirements (43 CFR 10) that may affect or be affected by consultation pursuant to section 106 of the NHPA concerning activities on Federal and Tribal lands that could affect human remains and cultural items. The Archeological Resources Protection Act of 1979 and its uniform regulations also require consultation with tribes and provide a formal process of notification (16 USC 470cc-dd);
- (4) Section 110 requires that an agency's efforts to comply with section 106 must also be consistent with the requirements of section 3(c) of NAGPRA concerning the disposition of human remains and Native American cultural items from Federal and tribal lands.

(h) Where those consulted do not routinely or customarily participate in traditional governmental means of consultation (e.g., through public meetings, exchanges of correspondence), reasonable efforts should be made to accommodate their cultural values and modes of communication.”

U.S. Department of Transportation Regulations

The Caltrans Division of Transportation Planning would refer to the following definition from the regulations that implement transportation planning efforts under Title 23 of the

United States Code that governs highways. The definition below, contained in [23 CFR 450.104](#), may help draw the distinction between consultation with a small “c” and Consultation with a capital “C.”

Consultation means that one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken. This definition does not apply to the “consultation” performed by the States and the MPOsⁱⁱ in comparing the long-range statewide transportation plan and the metropolitan transportation plan, respectively, to State and Tribal conservation plans or maps or inventories of natural or historic resources (see 450.214(i) and 450.322(g)(1) and (g)(2)).

The additional referenced sections of [23 CFR 450](#) are:

450.214(i) The long-range statewide transportation plan shall be developed, as appropriate, in consultation with State, Tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation. This consultation shall involve comparison of transportation plans to State and Tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

450.322(g) The MPO shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan. The consultation shall involve, as appropriate:

- (1) Comparison of transportation plans with State conservation plans or maps, if available; or
- (2) Comparison of transportation plans to inventories of natural or historic resources, if available.

U.S. Department of Transportation Tribal Consultation Plan

The U.S. Department of Transportation Tribal [Consultation Plan](#)'s definition of consultation is: “*Consultation*” refers to meaningful and timely discussion in an understandable language with tribal governments.

ⁱⁱ Metropolitan Planning Organizations

State definitions

California Government Code Section 65352.4

In 2004, California [Senate Bill 18](#) amended the California Government Code to require city and county governments to consult with California Native American tribesⁱⁱⁱ when developing or amending General Plans. Several sections in California's Government Code refer to this consultation. [California Government Code Section 65352.4](#) provides the definition of consultation, by stating the following:

“For purposes of Section 65351, 65352.3, and 65562.5, "consultation" means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.”

California State Transportation Agency Draft Tribal Consultation Policy

In the California State Transportation Agency's [draft November 2013 Tribal Consultation Policy](#), the Agency defines consultation as “a process whereby parties meet and confer to exchange information, compromise, and reach understandings that, when possible, may result in the adoption of mutually-beneficial policies and sustainable outcomes.

ⁱⁱⁱ Federally recognized California Native American tribe and non-federally recognized California Native American tribe on a contact list managed by the Native American Heritage Commission.

Exhibit 4.1: Cultural Resources Process Checklist

Beginning on the next page is a checklist that can be used to identify the required steps in the federal and state cultural resources compliance process. The checklist is supplemental and complementary to the guidance found in other chapters and exhibits of the Caltrans [Standard Environmental Reference Volume 2](#)-Cultural Resources. For some, it may help to print a copy of the checklist to ensure all the steps have been completed or to use when working with project development teams, consultants or local agencies.

PROJECT / UNDERTAKING / ACTIVITIES CHECKLIST			
<p><i>This checklist is designed to assist Caltrans staff in following appropriate procedures for 36 CFR 800 compliance, CEQA and PRC 5024 compliance. This checklist is meant to be a guide and its use is optional. Start with Task 1, indicate Yes or No, as applicable, and follow the "go to..." instructions.</i></p>			
<p>1. Does this project qualify as a screened undertaking as described in Section 106 PA Attachment 2, "Screened Undertakings?"</p>			
<p><input type="checkbox"/> YES. Go to 11.</p>			
<p><input type="checkbox"/> NO. Go to 2.</p>			
<p>2. Is a BRIDGE located within the project postmiles? If not, go to 3; if so, consult the Caltrans Historic Highway Bridge Inventory. If the bridge is a:</p>			
<p><input type="checkbox"/> Category 1 or 2 bridge, go to 12. For state-only projects go to 13.</p>			
<p><input type="checkbox"/> Category 3, 4 bridges, contact the Section 106 Programmatic Agreement and Coordination Branch (Section 106 Branch) Chief in the DEA Cultural Studies Office in Headquarters for further guidance. If the bridge requires re-evaluation, go to 12. For state-only projects go to 13. If re-evaluation is not required, print the appropriate page of the bridge inventory, and go to 12; for state-only projects go to 13.</p>			
<p><input type="checkbox"/> Category 5 bridges, print the appropriate page of the latest updated bridge inventory, and go to 3.</p>			
<p>3. Review literature/records to determine potential for involvement of cultural resources. Consult the:</p>			
• National Register of Historic Places and Updates:	<input type="checkbox"/>	Negative	<input type="checkbox"/> Positive
• California Register of Historical Resources:	<input type="checkbox"/>	Negative	<input type="checkbox"/> Positive
• California Historical Landmarks (State of California 1990):	<input type="checkbox"/>	Negative	<input type="checkbox"/> Positive
• California Inventory of Historical Resources (State of California 1976):	<input type="checkbox"/>	Negative	<input type="checkbox"/> Positive
• Caltrans Cultural Resources Database (CCRD)	<input type="checkbox"/>	Negative	<input type="checkbox"/> Positive
<p>Also consult district records, maps, as-builts, databases, local historic resource inventories, and "collective corporate memory" for information about cultural sensitivity and extent of modern development and ground disturbance in the project area. In general, any project that will disturb ground previously undisturbed by road construction may require a field review to determine if surveys are necessary.</p>			
<p><input type="checkbox"/> If the records review indicates the presence of cultural resources or if there is too little information to make a decision as to the type of studies needed, perform a field review and further assess the need for studies. To examine the potential for archaeological sites, architectural properties, and other built environment resources within the project area, go to 4.</p>			
<p><input type="checkbox"/> If the records review indicates no possibility of cultural resources being present and the project involves <i>no ground-disturbing activities</i>, then state the explicit reasons why a survey is unnecessary in the HPSR, go to 11</p>			

PROJECT / UNDERTAKING / ACTIVITIES CHECKLIST	
4. ARCHAEOLOGY: Examine the project area for terrain already subjected to massive modern disturbance (e.g., cuts, fill, pavement, built environment). Projects that disturb natural soil may affect archaeological deposits, artifacts, or other prehistoric or historic materials. <i>Note that the integrity of archaeological materials is not the issue, just their potential presence.</i> If the project:	
<input type="checkbox"/>	will <i>not</i> affect native soils, or the areas to be disturbed are sufficiently altered to preclude any suggestion of archaeological materials being present (e.g., project takes place <i>entirely</i> on fill or in a cut below natural soil horizons), an archaeological survey is <i>not</i> warranted. State the explicit reasons why a survey is unnecessary go to 7.
<input type="checkbox"/>	will affect native soils, or archaeological materials may be present; an archaeological survey is warranted. Go to 5.
5. Prepare maps and request a records search at the appropriate CHRIS Information Center. If the record search indicates that the APE:	
<input type="checkbox"/>	has been surveyed, examine the survey report(s). If the report does not meet Caltrans standards, go to 6. If it does meet Caltrans standards and is negative, go to 7; if the survey is positive, go to 12; for state-only projects go to 13.
<input type="checkbox"/>	has <i>not</i> been surveyed, go to 6.
6. Conduct an archaeological survey.	
<input type="checkbox"/>	Prepare an ASR discussing survey results, including discussion of “Properties Exempt from Evaluation” as appropriate, and go to 7.
7. BUILT ENVIRONMENT-BUILDINGS AND STRUCTURES: Examine the project area for buildings and structures that may be directly or indirectly affected by the project. <i>Note: If there is any question as to whether a building or structure may be directly or indirectly affected, contact the District PQS Architectural Historian(s) or the DEA Section 106 Branch Chief or DEA Built Environment Preservation Services (BEPS) Branch Chief.</i> If the:	
<input type="checkbox"/>	Project study area contains buildings, structures or objects that could be directly or indirectly affected by the project (including associated landscaping/setting), an architectural survey/evaluation is warranted; go to 8.
<input type="checkbox"/>	Project study area <i>does not</i> contain buildings, structures or objects that could be directly or indirectly affected, an architectural survey/evaluation is <i>not</i> warranted; go to 9.
8. Have certified Caltrans PQS Architectural Historian or a consultant who meet the qualifications outlined in Section 106 PA Attachment 1 evaluate the buildings, structures or objects.	
<input type="checkbox"/>	If staff or a consultant determines that the properties <i>do not</i> fall within the purview of Section 106 PA Attachment 4 , “Properties Exempt from Evaluation,” go to 12; for state-only projects go to 13.
<input type="checkbox"/>	If staff or a consultant determines that all the properties qualify for treatment under Section 106 PA Attachment 4, “Properties Exempt from Evaluation,” document it in the HPSR findings by checking the appropriate box with the name and PQS certification level of the person making this determination, and go to 10.
9. Examine the project area for other BUILT ENVIRONMENT RESOURCES (e.g., mines, roads, canals) that could be potentially significant or may contribute to the significance of a larger historic property. If the project:	
<input type="checkbox"/>	may directly affect potentially significant built environment resources, a historical evaluation is warranted; go to 12; for state-only projects go to 13.
<input type="checkbox"/>	<i>may not</i> directly affect potentially significant built environment resources, a historical evaluation is <i>not</i> warranted; go to 10.

PROJECT / UNDERTAKING / ACTIVITIES CHECKLIST	
10. Examine the results of the field reviews/surveys. If cultural resources surveys resulted in:	
<input type="checkbox"/>	a statement justifying why an archaeological survey was unnecessary, an ASR that resulted in no sites identified, a statement that all properties fall under Section 106 PA Attachment 4, or a Category 5 bridge evaluation sheet, prepare an HPSR , complete the "HPSR to District File," and go to 11.
<input type="checkbox"/>	an ASR that identified sites, architectural properties requiring evaluation, Category 1-4 bridges, Category 5 bridges that have turned 50 years old since last inventory update, or any previously unidentified resources determined potentially significant, prepare an HPSR , complete the with "HPSR to SHPO" section, and go to 12; for state-only projects go to 13.
11. For projects screened in accordance with Section 106 PA Attachment 2, the Caltrans PQS signs a Screened Undertaking memo to the project manager and files. This memo is evidence that Section 106, CEQA cultural resources compliance and, for state-owned properties, PRC 5024 compliance has been completed. The Screened Undertaking memo is attached to the CE Determination Form. Section 106 if complete. For state-only projects, CEQA and PRC 5024 compliance for cultural resources is complete. For projects that do not meet the criteria for screened undertakings in Section 106 PA Attachment 2 and where Caltrans archaeological or architectural study findings are negative (absence of resources, all properties are exempt from evaluation pursuant to Section 106 PA Attachment 4, or a Finding of No Historic Properties are Affected) prepare an HPSR and complete the "HPSR to District File" section; for state-only projects prepare an HRCR. Section 106 complete. For state-only projects: Cultural resources compliance for CEQA and PRC 5024 is complete.	
12. Prepare the APE map and obtain Caltrans PQS signatures as appropriate. Conduct all necessary archaeological and/or built-environment studies. Prepare and process an HPSR , complete the "HPSR to SHPO" section and send to SHPO requesting concurrence on National Register eligibility. HPSRs with Findings of No Adverse Effect with Standard Conditions (ESAs or SOIS) are sent to the DEA Cultural Studies Office (CSO), CSO has 15 days to object and this finding is contingent on SHPO's concurrence on eligibility, if properties had to be evaluated. Attach the Section 106 compliance letter(s) to/from SHPO/DEA CSO to the appropriate NEPA documentation. Section 106 complete. Go to 14.	
13. For state-only projects. Prepare the Project Area Limits map and obtain Caltrans PQS signatures as appropriate. Conduct all necessary archaeological and/or built-environment studies. Prepare an HRCR. Go to 14.	
14. Are there state-owned historical resources in the Project Area Limits that are listed in/eligible for listing in the National Register or registered/eligible for registration as California Historical Landmark(s)?	
<input type="checkbox"/>	YES. ARCHAEOLOGICAL OR NON-STRUCTURAL HISTORICAL RESOURCES: Submit the HPSR or HRCR to SHPO , per PRC 5024(f) notifying SHPO of effects and requesting SHPO's comments For federal undertakings, this step can be completed in the HPSR concurrently with Step 12 above. Go to 15.
<input type="checkbox"/>	YES. BUILT-ENVIRONMENT HISTORICAL RESOURCES: Submit the HPSR or HRCR to SHPO , per PRC 5024(b) and 5024.5 notifying SHPO of effects and requesting SHPO's concurrence on eligibility and no effect/no adverse effect, or adverse effect and continued consultation, as appropriate. For federal undertakings, this step can be completed in the HPSR concurrently with Step 12 above. Provide a copy of SHPO's concurrence letter to the Caltrans staff responsible for Section 106 or CEQA documentation. Go to 15.
<input type="checkbox"/>	NO. Go to 15.

PROJECT / UNDERTAKING / ACTIVITIES CHECKLIST	
15. Is there a substantial adverse change to a historical resource under CEQA?	
<input type="checkbox"/>	YES. The project likely does <i>not</i> qualify as a CEQA C.E. When Caltrans is the lead agency, coordinate with the project manager so the appropriate CEQA documentation can be prepared. Go to 17.
<input type="checkbox"/>	NO. Go to 16.
16. Assessment of effects.	
<input type="checkbox"/>	Federal undertakings: Finding of No Adverse Effect with Standard Conditions (FNAE-SC) Send FNAE-SC with District Environmental Branch Chief's signature to CSO and notify consulting parties. If CSO does not object, and SHPO concurs on eligibility, Section 106 is complete, Cultural resources compliance for CEQA and PRC 5024 is complete. If CSO objects to FNAE-SC or SHPO objects to eligibility determination continue consultation, if not resolved, go to 17.
<input type="checkbox"/>	State-only projects: No change or no substantial adverse change The District Environmental Branch Chief's signature on the HRCR indicates that CEQA cultural resources requirements have been met and, for state-owned resources, the HRCR with SHPO's concurrence letter indicates that PRC 5024(f) and/or PRC 5024.5 for state-owned historical resources requirements have been met. Cultural resources compliance for CEQA and PRC 5024 is complete. If SHPO objects under PRC 5024.5 continue consultation, if not resolved, go to 17.
<input type="checkbox"/>	Federal undertakings: Finding of No Adverse Effect without Standard Conditions (FNAE-No SC) The Caltrans district prepares the FNAE-No SC and sends it to DEA CSO Section 106 Branch Chief for review and forwarding to SHPO; the district concurrently notifies consulting parties. If CSO and SHPO do not object, Section 106 is complete, Cultural resources compliance for CEQA and PRC 5024 is complete. If CSO or SHPO object continue consultation, if not resolved, go to 17.
<input type="checkbox"/>	State-only projects: No adverse effect or no substantial adverse change The District Environmental Branch Chief's signature on the HRCR indicates that CEQA cultural resources requirements have been met and, for state-owned resources, the HRCR with SHPO's concurrence letter indicates that PRC 5024(f) and/or PRC 5024.5 requirements have been met. Cultural resources compliance for CEQA and PRC 5024 is complete. If SHPO objects under PRC 5024.5 continue consultation, if not resolved, go to 17.
<input type="checkbox"/>	Adverse Effect / Substantial Adverse Change. If effects to any of the historic properties are adverse or result in substantial adverse change, go to 17.
17. Federal undertakings: Prepare a Finding of Adverse Effect (FAE) document and send to the DEA CSO Section 106 Branch Chief for review, approval and transmission to SHPO. The District notifies the consulting parties. Go to 18. State-only projects: Complete the mitigation plan section of the HRCR. The District Environmental Branch Chief's signature on the HRCR indicates approval of the mitigation plan. Provide the staff preparing the CEQA documentation a copy of the HRCR and supporting documentation of mitigation measures. Cultural resources compliance with CEQA is complete when the overall CEQA documentation is complete. For state-owned resources, Complete the mitigation plan section of the HRCR and submit to SHPO. This can be a concurrent HRCR submittal with the determinations of eligibility or a separate supplemental HRCR. SHPO's concurrence letter indicates that PRC 5024(f) and/or PRC 5024.5 requirements have been met. PRC 5024 compliance is complete.	
18. Federal undertakings: District works with DEA CSO and SHPO to draft a Memorandum of Agreement and notifies consulting parties. When the MOA is signed and filed with the Advisory Council on Historic Preservation, Section 106 compliance is complete	

Exhibit 4.2: Standard Sources of Information

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Exhibit 4.2: Standard Sources of Information

Records Review

Cultural resource specialists will typically consult the following sources for projects that require cultural resources studies. Site-specific research may be appropriate for historically sensitive areas, including those associated with urban, suburban, and industrial development. Where information is maintained by the Regional Information Centers of the California Historical Resources Information System (CHRIS), cultural resources specialists should specifically request this information as a component of the record search. HRCs are responsible for keeping property listings and determinations of eligibility up to date for their district.

Caltrans Cultural Resources Database (CCRD) – This is an electronic inventory of architectural and archeological cultural resources that provides a connection to cultural resources along right-of-ways. Because it stores crucial and confidential cultural resources information its use is restricted to use by Caltrans cultural resource staff.

National Register of Historic Places – Current property listings are available through the National Park Service, National Register Program [Recent Listings](#) website (updated weekly), or from CHRIS Information Centers. Additionally, all National Register listings are available on-line through the National Register Information System ([NRIS](#)) database.

Determinations of Eligibility for the National Register of Historic Places – The Office of Historic Preservation (OHP) maintains this information in its electronic database and distributes hard copies quarterly to the CHRIS Information Centers. For previous determinations on FHWA/Caltrans projects, check the OHP database findings against the SHPO consultation correspondence for that project. The District environmental files and the Division of Environmental Analysis (DEA) files at Headquarters files should both hold copies of these letters.

California Register of Historical Resources – The OHP published the *California Inventory of Historical Resources* in 1976, and the updates appear in the OHP electronic database. Recent listings appear in the State Historical Resources Commission (SHRC) [minutes](#), available on-line through the OHP [SHRC website](#) or by contacting the OHP. CHRIS Information Centers also maintain this information. Properties that

are nominated to only the California Register are officially listed in the California Register on the date the SHRC approves the nomination, which is the date of the minutes in which the approval appears. The OHP has posted a [Historical Resources List](#) that, while *not comprehensive*, does contain California Register listings, along with National Register, California Historical Landmark, and California Points of Historical Interest listings. It is searchable by county.

California Historical Landmarks – The OHP published the [California Historical Landmarks](#) guidebook in 1995. Listings through 1995 are also searchable by [county](#) through the OHP website. Subsequent listings appear in the OHP electronic database. Recent listings appear in the SHRC [minutes](#), available on-line through the OHP [SHRC website](#) or by contacting the OHP. CHRIS Information Centers also maintain this information.

California Points of Historical Interest – The OHP published these listings in 1992; updates appear in the OHP electronic database. Recent listings appear in the SHRC [minutes](#), available on-line through the OHP website or by contacting the OHP. CHRIS Information Centers also maintain this information.

Local Register Listings – Consult city or county government planning departments, historical commissions, or historical societies for current information on locally designated landmarks or resources that are listed under local ordinances or registration programs. Also, OHP's 1989 *Survey of Surveys: A Summary of California's Historical and Architectural Resource Surveys* lists local architectural surveys funded through National Park Service grants through 1989. CHRIS Information Centers maintain this information. HRCs are strongly encouraged to keep updated records of locally designated landmarks for counties and communities in their districts. Many local governments are Certified Local Governments and must have a preservation ordinance in order to be certified. OHP administers this program and maintains a list of contacts for [Certified Local Governments](#) on-line.

Archaeological Inventory Files – CHRIS Information Centers maintain this information. The inventory includes site records and reports of survey and excavation projects. A record search should provide identification of previously recorded sites within a one-mile radius of the study area and copies of records for all recorded resources within one-quarter mile.

Caltrans Historic Bridge Inventory – This source is required only when there is a bridge or structure located within the APE. The inventory was updated in 2006; prin-

touts are on file with the Caltrans district environmental branches and include historical ratings for both state and locally owned bridges. See [Chapter 7](#) for information about updates to the inventory. Printouts also are available in the Cultural Studies Office in Headquarters where the original copy is kept.

Background and Property-Specific Research

Secondary Sources

Developing a historical context routinely begins with compiling information on the specific historical themes from secondary sources. Secondary sources are works that analyze or interpret historical information using primary or other secondary sources. They can also provide valuable bibliographical references to primary sources that may be helpful in conducting site-specific research. Occasionally secondary sources may focus specifically on a topic germane to the subject of the research, such as a biography of a former occupant of a house in the APE; a study of a particular industry, such as citrus growing or petroleum development; or a study of a particular event in the history of an area.

Secondary sources commonly used in cultural resources studies include:

- Caltrans-prepared historical contexts and archaeological research designs: Electronic copies of these documents include various topics such as historic landscapes, water conveyance systems; agricultural mining, townsite and work camp properties; Post-War tract housing; and an index to *California Highways and Public Works* and can save the historical archaeologist, historian, and architectural historian considerable time in researching these themes in California. They can be excerpted and included in Caltrans cultural studies reports, so long as they are credited as the source of information. For links and titles see the [Caltrans Guidance](#) section of this exhibit.
- General reference works and local histories: Hoover's *Historic Spots in California*, Gudde's *California Place Names*, Clark's *Gold Districts of California*, Fradkin's *Seven States of California*, Starr's *Americans and the California Dream* series, the Thompson and West county histories series
- Ethnographic sources: Volumes 8-11 of the *Handbook of North American Indians*, Kroeber's *Handbook of the Indians of California*, the OHP's *Five Views: An Ethnic Site Survey for California*
- Cultural and social geography sources: Some of the earliest scholars involved in cultural resources and historic preservation had degrees in cultural and social geography. Consult *Journal of Cultural Geography*, [Social and Cultural Geogra-](#)

[phy Research Group](#), [Association of American Geographers](#). Richard V. Francav-
ligia's books: *The Cast Iron Forest: A Natural and Cultural History of the North
American Cross Timbers*; *Main Street Revisited: Time, Space, and Image Build-
ing in Small-Town America*; *Hard Places: Reading the Landscape of America's
Historic Mining Districts*; *Mormon Landscape: Existence, Creation and Percep-
tion of a Unique Image in the American West*. Geography departments at
California colleges and universities, dissertations and theses

- Bibliographic references: Rocq's *California Local History*
- Encyclopedic references: Hart's *Companion to California*, Dunlap's *California People*
- Atlases: Beck & Haase's *Historical Atlas of California*
- *California Blue Book* (annual starting in 1850)
- *Historic Highway Bridges of California* (Caltrans, 1990)
- Heritage documentation: Historic American Building Survey (HABS), Historic American Engineering Record (HAER) and Historic American Landscapes Survey (HALS) data, available at the Bancroft Library; information can also be accessed through the National Park Service [Heritage Documentation](#) website)

Primary Sources

Property-specific research typically involves the use of primary sources. Primary sources (first-hand accounts of historical events or documents produced during the period of significance) can include:

- Government documents: deeds, mortgages, lease agreements, mining claims, subdivision plats, vital records, census data, permits and licenses, assessor's parcel information, probate records, Great Register of Voters indexes
- Serials: contemporary newspapers, periodicals, magazines
- Diaries, letters, journals, speeches, contemporary interviews
- Photographs, aerials
- Oral histories
- As-built plans
- Maps: Sanborn Fire Insurance maps, USGS topographic quads, GLO plats and notes, BLM mineral surveys and notes, diseños (post-1850 survey maps of Mexican ranchos)

Local Government Holdings

Many counties and cities maintain official or semi-official archives that can contain a wealth of documents, such as copies of U.S. Census schedules and tax assessment

rolls older than ten years. Information such as deeds, grantee/grantor indexes, deeds, and vital records (birth, death and marriage certificates) are kept at the County Recorder's office. The County Assessor has information on current property ownership; assessor's plat maps; and appraiser's records, which often contain construction dates, notes on any moved buildings, and alterations; the Superior Court Clerk's records contain probate files and information on properties that are subjects of litigation.

Libraries, Historical Societies and Special Collections

Frequently the main library in a city or county seat has a special collection on local history, which holds copies of local newspapers, city or county directories and old telephone books, locally published histories of the community, environmental studies for local planning agencies or special districts, photograph and map collections, etc. In addition, a local historical museum may have a research library or special collection of local historical documents that is available to researchers.

City or county historical societies also may have special historical collections and in many communities, staff from the historical society manages the local archives and museums that maintain research collections. Contacting the local historical society in the initial stages of property-specific research can produce valuable leads for locating important documents and research facilities.

Often local historical society members can identify individuals who may be good candidates for oral history interviews. If an oral history project is recorded on video or audiotape, the tape should be transcribed into printed form if the interview is over five minutes. The oral history is easier to work with in this format and will provide a more durable document for future reference.

College libraries may also have a special collection on the history of the locality or region, or might possess documents on a particular activity (e.g., agriculture of Fresno County) or particular groups or individuals in the region. Usually such collections are held in the main campus library, but often the individual academic departments keep their own libraries or special collections.

The California History Room of the State Library in Sacramento has complete holdings of the census schedules for California, from 1850 to 1930, for every county in the state. It also has a good collection of the Index to the Great Register of Voters from each county, local newspapers, historical maps, city and county directories, and telephone books.

Caltrans Holdings

Caltrans has many primary sources in both Headquarters and in the District offices. The Caltrans Transportation Library and History Center at Headquarters has an extensive collection of research materials covering the history of Caltrans and the development of the state highway system in California, including books; oral histories; article and news clippings; photographs; maps; and Caltrans documents, such as a complete run of the annual reports of the Division of Highways starting from the beginning of the state highway system. Selected photographs and other items in the history collection are accessible to Caltrans staff on the Caltrans Transportation Library and History Center Intranet website. The library also maintains a complete collection of *California Highways and Public Works*, a valuable source of historical information relating to state highway and bridge projects. Indexes to the journal's [articles](#) and [photographs](#) from 1937-1967 are available on-line through the Caltrans DEA website. The library offers a number of services to Caltrans staff statewide, including interlibrary loan and research and reference assistance.

Headquarters has microfilm copies of as-built plans of various contracts completed on state highways from the 1920s to the present together with some diseños and rancho surveys. District offices often have copies of as-built plans as well, including some that are not in Headquarters files. District Right-of-Way may also have older plans, maps, and history files. The Division of Structures has as-built plans for bridges and tunnels dating from the 1920s. The Structures Maintenance section has a collection of bridge logs containing inspection records for state highway and local roads bridges. Most of this information is available to Caltrans staff through the BIRIS database on the Structures Maintenance Caltrans Intranet website. Structures Maintenance also retains many final reports from construction projects dating from the 1910s, which are stored off site. Additionally, the [state highway bridge log](#) and the [local agency bridge log](#) are accessible on-line through the Structures Maintenance website. These contain information on bridge type and whether a bridge has been widened.

As a result of heightened security measures, as-built plans of bridges, tunnels and highway structures are treated as confidential documents.

They are great research tools, but it is prudent to avoid using them in documents that will be made public. If their inclusion is necessary in order for FHWA or SHPO to make decisions regarding eligibility or effects, treat them as confidential exhibits that need to be removed from documents that are made available to the public.

National Register Bulletins

Caltrans uses the National Register Bulletin series, published by the National Park Service, to supplement the Caltrans [Standard Environmental Reference \(SER\) Volume 2-Cultural Resources](#), because the series sets the national standards in how to identify and evaluate cultural resources for using the National Register criteria. In addition, the series offers excellent guidance that can be followed when using the California Register criteria to determine whether a resource is a historical resource under CEQA. The following bulletins are available on-line (some have a series number while others do not; bulletins that are available in print only are not listed):

[National Register Bulletin 15](#): *How to Apply the National Register Criteria for Evaluation* offers excellent guidance in determining significance and assessing integrity, and it is the backbone of the guidance Caltrans uses when evaluating cultural resources for National Register eligibility.

Other useful National Register Bulletins include:

- [National Register Bulletin 13](#): *How to Apply the National Register Criteria to Post Offices*
- [National Register Bulletin 16A](#): *How to Complete the National Register Registration Form* (contains information on historic themes as well as how to count contributing and noncontributing elements and contains the information from old National Register Bulletin 14, now out of print)
- [National Register Bulletin 16B](#): *How to Complete the National Register Multiple Property Documentation Form*
- [National Register Bulletin 18](#): *How to Evaluate and Nominate Designed Historic Landscapes*
- [National Register Bulletin 20](#): *Nominating Historic Vessels and Shipwrecks to the National Register of Historic Places*
- [National Register Bulletin 22](#): *Guidelines for Evaluating and Nominating Properties That Have Achieved Significance Within the Past Fifty Years*
- [National Register Bulletin 23](#): *How to Improve the Quality of Photographs for National Register Nominations*
- [National Register Bulletin 24](#): *Guidelines for Local Surveys*
- [National Register Bulletin 28](#): *Using the UTM Grid System to Record Historic Sites*
- [National Register Bulletin 30](#): *Guidelines for Evaluating and Documenting Rural Historic Landscapes*

- [National Register Bulletin 32](#): *Guidelines for Evaluating and Documenting Properties Associated with Significant Persons*
- [National Register Bulletin 34](#): *Guidelines for Evaluating and Documenting Historic Aids to Navigation*
- [National Register Bulletin 35](#): *Examples of National Register Registration Documentation*
- [National Register Bulletin 36](#): *Guidelines for Evaluating and Registering Archeological Properties*
- [National Register Bulletin 38](#): *Guidelines for Evaluating and Documenting Traditional Cultural Properties*
- [National Register Bulletin 39](#): *Researching a Historic Property*
- [National Register Bulletin 40](#): *Guidelines for Identifying, Evaluating, and Registering America's Historic Battlefields*
- [National Register Bulletin 41](#): *Guidelines for Evaluating and Registering Cemeteries and Burial Places*
- [National Register Bulletin 42](#): *Guidelines for Identifying, Evaluating and Registering Historic Mining Properties*
- [National Register Bulletin \(Aviation\)](#): *Guidelines for Evaluating and Documenting Historic Aviation Properties*
- [National Register Bulletin \(Boundaries\)](#): *Defining Boundaries for National Register Properties* (with Appendix, Definition of National Register Boundaries for Archeological Properties; old National Register Bulletins 12 and 21, now out of print)
- [National Register Bulletin \(NHL\)](#): *How to Prepare National Historic Landmark Nominations* <http://www.cr.nps.gov/nr/publications/bulletins/nhl/nhlstart.htm>
- [National Register Bulletin \(Stories\)](#): *Telling Stories - Planning Effective Interpretive Programs for Places Listed in the National Register of Historic Places*
- [National Register Bulletin \(Suburbs\)](#): *Historic Residential Suburbs - Guidelines for Evaluation and Documentation for the National Register of Historic Places*

Caltrans Guidance

Caltrans developed the following historic contexts and guidance for staff to use when encountering ditches and canals and their associated features, as well as for evaluating historic landscapes. The guidance is tailored to resources within California and is also useful for local agency transportation projects:

- [Index for California Highways & Public Works Magazine](#) (1997)

Exhibit 4.2: Standard Sources of Information

- [Guidelines for Identifying and Evaluating Historic Landscapes](#) (February 1999)
- [Water Conveyance Systems in California: Historic Context Development and Evaluation Procedures](#) (December 2000)
- [A Historical Context and Archaeological Research Design for Agricultural Properties in California](#) (2007)
- [A Historical Context and Archaeological Research Design for Mining Properties in California](#) (2008)
- [A Historical Context and Archaeological Research Design for Townsite Properties in California](#) (2010)
- Tract [Housing](#) in California, 1945-1973: A Context for National Register Evaluation (2011)
- [A Historical Context and Archaeological Research Design for Work Camp Properties in California](#) (2013)

Exhibit 4.3: National Register and California Register Comparison

The National Register of Historic Places criteria and guidance in [National Register Bulletin #15](#) are very similar to the [California Register of Historical Resources criteria](#) and [regulations](#), which Caltrans uses to determine whether a resource is a historical resource under CEQA. There are some differences between the federal and state criteria. They are enumerated on the chart below. **Boldfaced** sections are for emphasis.

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>CRITERIA</p> <p><u>Law</u> States that the California Register criteria are the same as the National Register criteria. [PRC 5024.1(c)]</p> <p><u>Regulations</u> "These criteria are consistent with National Register criteria, but have been modified for state use in order to include a range of historical resources which better reflect the history of California." (CCR 4852)</p>	<p>CRITERIA</p> <p><u>Law</u> No criteria are included in the law.[Public Law 89-665, 16 USC 470 et seq.]</p> <p><u>Regulations</u> "The quality of significance-in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:</p>
<p>"A resource may be listed as an historical resource in the California Register if it meets any of the following National Register of Historic Places criteria:</p> <p>(1) Is associated with <i>EVENTS</i> that have made a significant contribution to the broad patterns of California's history and cultural heritage.</p> <p>(2) Is associated with the lives of <i>PERSONS</i> important in our past.</p>	<p>(A) That are associate with <i>EVENTS</i> that have made a significant contribution to the broad patterns of our history; or</p> <p>(B) That are associated with the lives of <i>PERSONS</i> significant in our past; or</p>
<p>(3) Embodies the distinctive characteristics of a <i>TYPE, PERIOD, REGION, OR METHOD OF CONSTRUCTION</i>, or represents the <i>WORK OF AN IMPORTANT CREATIVE INDIVIDUAL</i>, or possess <i>HIGH ARTISTIC VALUES</i>.</p>	<p>(C) That embody the distinctive characteristics of a <i>TYPE, PERIOD, OR METHOD OF CONSTRUCTION</i>, or that represent the <i>WORK OF A MASTER</i>, or that possess <i>HIGH ARTISTIC VALUES</i>, or that represent a significant and <i>DISTINGUISHABLE ENTITY WHOSE COMPONENTS MAY LACK INDIVIDUAL DISTINCTION</i>; or</p>
<p>(4) Has yielded, or may be likely to yield, <i>INFORMATION IMPORTANT</i> in prehistory or history." [PRC 5024.1(c)]</p>	<p>(D) That have yielded, or may be likely to yield, <i>INFORMATION IMPORTANT</i> in prehistory or history. [36 CFR 60.4]</p>

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>INTEGRITY</p> <p><u>Law</u></p> <p>There is no mention of integrity in the legislation.</p> <p><u>Regulations</u></p> <p>The California Register regulations do address integrity. But, they do not state that the California Register is more inclusive or has a lower threshold of significance than the National Register.</p> <p>“Integrity is the authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resources’ period of significance.</p> <p>Historical resources eligible for listing in the California Register must:</p> <ul style="list-style-type: none"> -meet one of the criteria of significance described in CCR 4852(b) of this chapter and - retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. <p>Historical resources that have been rehabilitated or restored may be evaluated for listing.” [CCR 4852 (c)]</p>	<p>INTEGRITY</p> <p><u>Law</u></p> <p>There is no mention of integrity in the legislation.</p> <p><u>Regulations</u></p> <p>“The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association...[36 CFR 60.4]</p> <p>“Integrity is the ability of a property to convey its significance. . . . Historic properties either retain their integrity or they do not.”</p> <p>Guidance for assessing integrity is in National Register Bulletin 15, Section VIII.</p> <p>“Integrity is based on significance: why, where and when a property is important. Only after significance is fully established can you proceed to the issue of integrity. . . Ultimately the question of integrity is answered by whether or not the property retained the identify for which it is significant.” [Section VIII]</p> <p>“All properties change over time. It is not necessary for a property to retain all its historic physical features or characteristics.</p> <p>The property must retain, however, the essential physical features that enable it to convey its historic identity. These essential physical features are those features that define both why a property significant (Applicable criteria and Areas of Significance) and when it was significant (Periods of Significance). They are features without which a property can no longer be identified as, for instance, a late 19th century dairy barn or an early 20th century commercial district.” [Section VIII]</p>
<p>“Integrity is evaluated with regard to the retention of</p> <ul style="list-style-type: none"> - location - design - setting - materials - workmanship - feeling - association 	<p>“The quality of significance...is present in districts, sites, buildings, structures, and objects that possess integrity of:</p> <ul style="list-style-type: none"> - location - design - setting - materials - workmanship - feeling - association

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>INTEGRITY (continued)</p> <p>It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility. [CCR 4852 (c)]</p> <p>“Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance.” [CCR 4852 (c)]</p>	<p>INTEGRITY (continued)</p> <p>“To retain historic integrity a property will always possess several, and usually most, of the aspects. The retention of specific aspects of integrity is paramount for a property to convey its significance. Determining which of these aspects are most important to a particular property requires knowing why, where, and when the property is significant.” [Section VIII]</p> <p>Provides guidance for evaluating integrity under each of the four eligibility criteria. As with the California Register regulations, the National Register recognizes that alterations and changes in a property’s use over time may themselves have significance.</p> <p>This is expressed most clearly under Criterion C “A property can be significant not only for the way it was originally constructed or created, but also for the way it was adapted at a later period, or for the way it illustrates changing tastes attitudes, and uses over a period of time.” [Section VI]</p>
<p>ELIGIBILITY FOR INFORMATION POTENTIAL - when Integrity Lacking</p> <p><u>Law</u></p> <p>Eligibility under Criterion 4 when integrity is lacking is not mentioned in the law. California Register law states under criterion 4, a resource may be listed if it: “Has yielded, or may be likely to yield, information important in prehistory or history.” [PRC 5024.1(c)(4)] Language between the law and the regulations is different. The language in PRC 5024.1 is closer to the National Register language.</p> <p><u>Regulations</u></p> <p>Language is similar to the guidance in <i>National Register Bulletin 15</i> regarding eligibility under National Register Criterion D when there is a lack of integrity under the other criteria. [CCR Title 14 Chapter 11.5 Section 4852(c)]</p>	<p>ELIGIBILITY FOR INFORMATION POTENTIAL - when Integrity Lacking</p> <p><u>Law</u></p> <p>Eligibility under Criterion D when integrity is lacking is not mentioned in the law.</p> <p><u>Regulations</u></p> <p>“The assessment of integrity for properties considered for information potential depends on the data requirements of the applicable research design.</p>

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>ELIGIBILITY FOR INFORMATION POTENTIAL – when Integrity Lacking (continued)</p> <p>“It is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register.</p> <p>A resources that has lost its historic character or appearance may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data.” [CCR 4852 (c)]</p> <p>The California Register Regulations uses the term “significant scientific or historical information or specific data,” but does not define it.</p>	<p>ELIGIBILITY FOR INFORMATION POTENTIAL – when Integrity Lacking (continued)</p> <p>A property possessing information potential does not need to recall visually an event, person, process, or construction technique. It is important that the significant data contained in the property remain sufficiently intact to yield the expected important information, if the appropriate study techniques are employed.” [Criterion D – Section VI]</p> <p>“For properties eligible under Criterion D, including archeological sites and standing structures studied for their information potential, less attention is given to their overall condition, than if they were being considered under criteria A, B, or C.” [Section VIII]</p> <p>“Criterion D has two requirements which must both be met for a property to qualify,</p> <p style="padding-left: 40px;">“The property must have, or have had, information to contribute to our understanding of human history or prehistory, and</p> <p style="padding-left: 40px;">the information must be considered important.” [Section VI]</p> <p>NRB 15 uses the term “important information potential” and provides definitions and guidance in Section VI.</p>
<p>SPECIAL CONSIDERATIONS</p> <p>RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> These resources fall under the category of “Special Considerations” in the regulations.</p>	<p>CRITERIA CONSIDERATIONS</p> <p>RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> These resources are considered “Criteria considerations.” <i>Criteria considerations are usually expressed in lower case letters in parentheses. For Example, “Criteria Consideration (a).”</i></p>

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES (continued)</p> <p>The following properties may be listed in the California Register:</p> <ul style="list-style-type: none"> - religious properties - birthplaces - graves - cemeteries - commemorative resources <p>California Register criteria have no exceptions for these types of properties. As long as they meet the criteria in CCR 4852 (b)(1) through (4) and have integrity, they can be listed.</p>	<p>RELIGIOUS PROPERTIES, BIRTHPLACES, GRAVES, CEMETERIES & COMMEMORATIVE PROPERTIES (continued)</p> <p>The following properties are not normally eligible unless they met some very specific measurements: [National Register Criteria Considerations a, c, d, f]</p> <ul style="list-style-type: none"> - religious properties [Consideration (a)] - birthplaces [Consideration (c)] - graves [Consideration (c)] - cemeteries [Consideration (d)] - commemorative properties [Consideration (f)] - properties achieving significance within the past 50 years [Consideration (g)] <p>For religious properties, it is to “avoid any appearance of judgment by government about the validity of any religion or belief.” (Section VII)</p> <p>Birthplaces and graves may be “temporally and geographically far removed from the person’s significant activities, and therefore are not usual considered eligible.” (Section VII)</p> <p>“Cemeteries serve as a primary means of an individual’s recognition of family history and as expressions of collective religious and/or ethnic identity.” However, if cemeteries “embody values beyond personal or family-specific emotions, the national Register criteria allow for listing of cemeteries under certain conditions.” (Section VII)</p> <p>Commemorative properties are “not directly associated with the event or with the person’s productive life but serve as evidence of a later generation’s assessment of the past... [and] generally must be over fifty years old and must possess significance based on [their] own value, not on the value of the event or person being memorialized.” (Section VII)</p>
<p>MOVED BUILDING & STRUCTURES</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> These resources fall under the category of “Special Considerations” in the regulations.</p>	<p>MOVED BUILDING & STRUCTURES</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> These resources fall under the category of “Special Considerations” in the regulations.</p>

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>MOVED BUILDING & STRUCTURES (continued)</p> <p>A moved building, structure or object that is otherwise eligible "may be listed in the California Register if:</p> <ul style="list-style-type: none"> - it was moved to prevent its demolition at its former location and - if the new location is compatible with the original character and use of the historical resource. <p>An historical resource should retain its historic features and compatibility in orientation, setting, and general environment." [CCR 4852 (d)(1)]</p> <p>[See also the definition of object under CCR 4852(a)(4).]</p>	<p>MOVED BUILDING & STRUCTURES (continued)</p> <p>A moved building, structure or object under National Register criteria consideration (b) is usually not considered eligible for the National Register unless:</p> <ul style="list-style-type: none"> - it is was moved prior to its period of significance (and is significant at its new site), - is significant primarily for architectural value, or - is the surviving structure most importantly associated with a historic person or event. <p>Guidance for applying criteria consideration (b) is in Section VII.</p>
<p>PROPERTIES LESS THAN 50 YEARS OLD</p> <p><u>Law</u></p> <p>Not mentioned in the law.</p> <p><u>Regulations</u></p> <p>These resources fall under the category of "Special Considerations" in the regulations.</p> <p>A resource that is less than fifty years old "may be considered for listing in the California Register if</p> <ul style="list-style-type: none"> - it can be demonstrated that sufficient time has passed to understand its historical importance" - it does not have to be exceptionally important. [CCR 4852 (d)(2)] <p>This section states that "in order to understand the historical importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resources."</p>	<p>PROPERTIES LESS THAN 50 YEARS OLD</p> <p><u>Law</u></p> <p>Not mentioned in the law.</p> <p><u>Regulations</u></p> <p>A property that is less than fifty years old under National Register criteria consideration (g) is usually not considered eligible for the National Register unless it is of exceptional importance, a phrase that may be applied to the extraordinary importance of an event or to an entire category of resources so fragile that survivors of any are unusual. Guidance for applying criteria consideration (g) is in NRB 15, Section VII.</p> <p>"Fifty years is a general estimate of the time needed to develop historical perspective and to evaluate significance." [NRB 15 Section VII]</p> <p>"The necessary perspective can be provided by scholarly research and evaluation, and must consider both the historic context and the specific property's role in that context." [NRB 15 Section VII]</p>

CALIFORNIA REGISTER LAW AND REGULATIONS	NR BULLETIN 15 – HOW TO APPLY THE NATIONAL REGISTER CRITERIA FOR EVALUATION
<p>RECONSTRUCTED BUILDINGS</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> These resources fall under the category of “Special Considerations” in the regulations. A reconstructed building (as opposed to structure or object) is not listed in the California Register under CCR 4852 (b)(1)-events, (2)-lives, (3)-distinctive characteristics, etc. A reconstructed building that is less than fifty years old "may be eligible if it embodies traditional building methods and techniques that play an important role in a community's historically rooted beliefs, customs, and practices, e.g., a Native American roundhouse." [CCR 4852 (d)(3)] This is a broader interpretation than for reconstructions under the National Register, but it only applies to buildings, not structures, objects or districts.</p>	<p>RECONSTRUCTED BUILDINGS</p> <p><u>Law</u> Not mentioned in the law.</p> <p><u>Regulations</u> A reconstructed property under National Register criteria consideration (e) is usually not considered eligible for the National Register unless it is accurately executed in a suitable environmental and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived. This applies mainly to reconstructions that are less than fifty years old because when they attain fifty years of age, they may qualify in their own right under any of the National Register criteria. Guidance for applying criteria consideration (e) is in NRB 15, Section VII.</p>

Exhibit 4.4: Minimal Recordation for Certain Exempted State-owned Resources

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Exhibit 4.4:

Minimal Recordation for Certain Exempted State-owned Resources

Background

Caltrans' property management and policy responsibilities under Public Resources Code (PRC) 5024 and Governor's Executive Order W-26-92 (W-26-92) are similar to those of Section 110 in the National Historic Preservation Act of 1966 as amended for federal agencies that own properties. In order to be able to manage its properties, Caltrans needs to have a very good idea of the scope of what it owns—whether or not it is historic or 30 or 40 or 50 years old. Inventorying state-owned resources is integral to management, planning and reporting.

Caltrans districts generally do not carry out the administration provisions of PRC 5024 or W-26-92; CSO does this with information garnered from the districts. In order to carry out that responsibility and to gauge future workloads and expenditures, Caltrans needs to have an inventory to gain a better perspective of the total population and range of its built-environment resources. That includes planning if and when resources previously exempted from evaluation will need to be evaluated.

Under PRC 5024, Caltrans's long-term responsibilities include:

- Formulating policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction that are listed in or potentially eligible for inclusion in the National Register of Historic Places (NRHP) or registered or eligible for registration as a California Historical Landmark (CHL) [PRC 5024(a)];
- Completing an inventory of all state-owned structures over 50 years of age under its jurisdiction that are listed in or eligible for inclusion in the NRHP or CHL [PRC 5024(a)]; and
- Taking an inventory of state-owned structures in freeway rights-of-way before approval of any undertaking which would alter their original or significant features or fabric, or transfer, relocate or demolish those structures.

Similarly under W-26-92, Caltrans is responsible for:

- Developing and instituting feasible and prudent policies and developing a Heritage Resource Management Plan (HRMP) to preserve and maintain its significant heritage resources, in consultation with the SHPO and, as appropriate, the State Historical Building and Safety Board. Caltrans must consult with SHPO on the HRMP periodically to review and, if necessary, revise the HRMP;
- Completing an inventory of its significant heritage resources that takes into account the kind, quantity, location of, and development risk to properties within Caltrans ownership and control; and
- Annually report to the SHPO the progress in completing inventories, management plans, and policies for significant heritage resources.

For the purpose of developing management plans and policies under W-26-92, the term “significant heritage resource” is used. It is slightly different than what is used under PRC 5024 and is more inclusive. Significant heritage resource means any cultural resource that meets the following criteria:

1. Listed in or potentially eligible for inclusion in the NRHP
2. Registered or eligible for registration as a CHL
3. Registered or eligible for registration as a Point of Historical Interest
4. Registered or eligible for listing in the California Register of Historical Resources

Once the record for a state-owned built-environment resource is included in the Caltrans Cultural Resources Databaseⁱ (CCRD), that resource is considered to have been inventoried. New or additional DPR 523ⁱⁱ forms will not need to be completed for later project/activities. However, as is the case for previously evaluated resources, the passage of time or change in the resource’s condition might warrant evaluation.

ⁱ This is an electronic inventory of architectural and archeological cultural resources that provides a connection to cultural resources along right-of-ways. Because it stores crucial and confidential cultural resources information its use is restricted to use by Caltrans cultural resource staff.

ⁱⁱ The term “DPR 523 form” refers to the DPR 523 series designation that the Office of Historic Preservation (OHP) assigned to its California Historic Resources Inventory Form, as described in OHP’s March 1995 publication, [Instructions for Recording Historical Resources](#).

State-owned Resources Exempted from Evaluation - No Recordation or Citation Required

The following resource types do not need to be recorded:

- Resource Type 1: State-owned minor, ubiquitous, or fragmentary infrastructure elements built environment resources
- Resource Type 2: State-Owned Buildings, structures, objects, districts, and sites less than 30 years old

Citation is not required. In the Historical Resources Compliance Report (HRCR) or the Historic Property Survey Report (HPSR) and in the Historical Resources Evaluation Report (HRER), state that there are Type 1 built environment resources in the Project Area Limits (PAL).

State-owned Resources Exempted from Evaluation - Citation Required

- Category 5 bridges and culverts with bridge numbers

No recordation: Because the Caltrans Historic Bridge Inventory is regularly updated, these resources are already included in the CCRD.

Citation required: List these resources in “Section 9: State-owned Historical Resources Findings” of the HRCR or “Section 9: Findings for State-owned Properties” of the HPSR.

Resource Types Requiring Recordation and Citation

The state-owned built-environment resource types 3 through 7 must be recorded on a DPR 523 Primary Record form (or its successor form) that are scanned into the CCRD, or can be electronically created by using data in the CCRD, and their addresses or locations noted in “Section 9: State-owned Historical Resources Findings” of the HRCR or “Section 9: Findings for State-owned Properties of the HPSR. 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 7 need only be listed in the HRCR as noted above.

See 5024 MOU [Attachment 4](#) for more details about these types:

- Resource Type 3: state-owned Buildings, structures, objects, districts, and sites so altered as to appear less than 30 years old
- Resource Type 4: state-owned Buildings, structures, objects, districts, and sites 30 to 50 years old
- Resource Type 5: state-owned Buildings, structures, and objects moved within the past 50 years
- Resource Type 6: Altered state-owned buildings, structures, objects, districts, and sites whose alterations appear to be more than 30 years old
- Resource Type 7: state-owned Post-World War II builders' houses and housing tracts

Recordation

For state-owned built-environment resource types 3 through 7, Caltrans PQS staff and consultants with access to the CCRD, enter the minimal information to identify the resource and that results in a DPR 523 Primary Record when printed. Enter only the following information:

- Resource name
- County
- Caltrans' County/Route/Postmile **or** address and city
- Description:
 - State, "*Exempt: PRC 5024 MOU Attachment 4 Resource Type ____.*" Add the resource type or types if there is more than one, such as in a maintenance station complex. Nothing else needs to be in the description.
- Construction date(s) age (actual or estimated)
- Owner
 - State "Caltrans" and the district within which the resource is located. No other information needed in this field.
- Person who recorded the resource
- Date resource was recorded

Consultants without access to CCRD must complete a DPR 523 Primary Record and provide an electronic copy to the appropriate Caltrans District cultural resources staff

to input into CCRD, in addition to any other required copies and documents that may be required by contract.

Sample Minimal Recordation on DPR 523 Primary Record

The following is an example of an abbreviated DPR 523 for exempted resource types 3 through 7.

Exempted Resource Type 6 Recordation Example

Required text is highlighted in yellow.

State of California — The Resources Agency	Primary #	_____
DEPARTMENT OF PARKS AND RECREATION	HRI #	_____
PRIMARY RECORD	Trinomial	_____
	NRHP Status Code:	_____
	Other Listings	_____
Review Code	Reviewer	Date

*Resource Name or #: **District 99 Equipment Shop** Caltrans Map Reference No.: _____

P1. Other Identifier: _____

*P2. Location: _____ Not for Publication _____ Unrestricted

*a. County **Sawyer** County/Route/Postmile: _____

*b. USGS 7.5' Quad: _____ Date _____ T _____; R _____ of _____ of Sec _____; _____ B.M.

c. Address **1627 W. Main St.** City **Beale Heights** Zip _____

d. UTM:: Zone _____, _____ mE/ _____ mN

*e. Other Locational Data (APN #, etc.) _____

*P3a. Description: (Briefly describe resource below)

Exempt: PRC 5024 MOU Attachment 4 Resource Type 6

Resources Present is optional but aids future researchers who can conduct a query by resource type.

*P3b. Resource Attributes: _____

*P4. Resources Present: _____ Building _____ Structure _____ Object _____ Site _____ District _____
 Elements of District _____ Other _____

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects.)



A photo is optional, but is helpful for future reference and is easily obtained during the field survey.

P5b. Description of Photo:

*P6. Date Constructed/Age: **1938**
 Historic _____ Prehistoric _____ Both _____

*P7. Owner and Address: **Caltrans, District 99**

*P8. Recorded by: **Anuva Gupta, D99 PQ5**

*P9. Date Recorded: **01/07/15**

*P10. Type of Survey: _____ Intensive
 _____ Reconnaissance _____ Other
 Describe: _____

*P11. Report Citation: _____

*Attachments: NONE _____ Map Sheet _____ Continuation Sheet _____ Building, Structure and Object Record
 _____ Linear Resource Record _____ Archaeological Record _____ District Record _____ Milling Station Record _____ Rock Art Record
 _____ Artifact Record _____ Photograph Record _____ Other (List): _____

See [Office of Historic Preservation Recording Historical Resources](#) for instructions.

Exhibit 5.1:

Archaeological Survey Report Format and Content Guide

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Exhibit 5.1: Archaeological Survey Report Format and Content Guide

Archaeological Survey Report (ASR) Format

Caltrans uses the Archaeological Survey Report (ASR) to present results of identification efforts conducted for a project. It documents both positive and negative archaeological survey results; it does not evaluate sites. The ASR is in text format only; *there is no longer a short-form (“Negative”) version of this document*. The ASR demonstrates that Caltrans has made a reasonable level of effort to identify archaeological properties, commensurate with the scale and scope of the undertaking. Accordingly, the level of detail included in the ASR is highly variable. A small project with no sites may result in a three-page document while a long linear project through several ethnographic areas with sites may be a 50-page document (or longer).

Append the ASR to the Historic Property Survey Report (see [Exhibit 2.6](#)) for federal undertakings and to the Historical Resources Compliance Report ([Exhibit 2.14](#)) for state-only projects. Built-environment resources, however, are not reported in the ASR but in another type of document, the Historical Resources Evaluation Report (HRER); see [Exhibit 6.2](#). Resources that may be Traditional Cultural Properties can be mentioned in the ASR, but their evaluation should be included in an HRER or Archaeological Evaluation Report (AER), see [Exhibit 5.5](#). Properties that meet the criteria for [Section 106 PA¹ Attachment 4](#), “Properties Exempt from Evaluation” (for state-owned cultural resources [5024 MOU² Attachment 4](#)), may be discussed in the ASR, but be sure to state that such properties, as a category are not eligible for inclusion in the National Register of Historic Places (National Register). The known National Register status of properties is identified explicitly in the ASR, but the evaluation or re-evaluation of sites belongs in subsequent documents, and are not addressed in the ASR.

ASR FORMAT

- Title page
- Table of Contents
- Summary of Findings
- Introduction
- Highway Project Location and Description
- Sources Consulted
- Background
- Field Methods
- Study Findings and Conclusions
- References Cited
- Maps
- Other Figures
- Site Records

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid High-way Program in California.

² 2015 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.

Title Page

- In the title, identify the type of study (archaeological survey), type of highway project (e.g. "Proposed Truck Passing Lane"), and general location of the study (e.g. "near Los Baños, Merced County, California").
- Below the title, identify the highway project by district, county, route, post miles, and E-FIS3 project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level as described in Attachment 1 of the Section 106 PA and the 5024 MOU, and location of the person who prepared the report. This person signs the title page of the final report. If the report has a large number of authors, all should be listed by name, but only the senior author's name, title, location, and signature are needed.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. The EBC approves the report by signing the title page in his/her signature block.
- If a governmental permit for the survey was issued, provide the name of the permitting agency and the permit number.
- List the USGS topographic quadrangle(s) depicting the study area.
- List the approximate acreage included in the study. (To calculate: miles in length times width in feet times 0.1212 equals acres; acres times 0.405 equals hectares.)
- List primary numbers, trinomials, and other permanent designations of all cultural resources identified in the report.
- List the month and year of completion of the report at the bottom of the page.

Table of Contents

If the report is large enough to make it helpful, provide a Table of Contents, listing the major report sections subheadings, appendices, tables, and figures, with page numbers.

Summary of Findings

Provide an abstract of the intent, methods, scope, and results of the survey. Describe briefly:

- Proposed undertaking
- Purpose and scope of the survey
- Any constraints to the survey effort
- Number and types of identified archaeological resources and their relation to the proposed project's limits (i.e., within or adjacent).

³ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- Include the following statement:

It is Caltrans' policy to avoid cultural resources whenever possible. Further investigations may be needed if the site[s] cannot be avoided by the project. If buried cultural materials are encountered during construction, it is Caltrans' policy that work stop in that area until a qualified archaeologist can evaluate the nature and significance of the find. Additional survey will be required if the project changes to include areas not previously surveyed.

Introduction

- Present the date(s) and location of the survey (e.g. on Route 49 in Mariposa County).
- Reference the Study Vicinity Map, Study Location Map, and Study Coverage Map appended to the report.
- Provide the names and general qualifications of the surveyors (PQS level, or relevant educational background, number of years and general geographical location of field experience).

Highway Project Location and Description

- State the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number).
- Describe the project location as to its rural or urban setting and relation to communities or other major regional landmarks.
- Describe concisely the nature and scope of the proposed project and its potential to affect historic properties.
- Indicate whether new right of way is required.
- For the Area of Potential Effects (APE), describe horizontal and vertical extent of anticipated ground-disturbing activities (Direct APE) within the APE. Reference the APE map, if it is available. If the APE has not been formally defined, reference specific engineering plans, etc.

Sources Consulted

Summary of methods and results

Summarize the methods and results of the records search at the appropriate California Historical Resources Information System (CHRIS) Information Center. Include the following:

- State the date of the records search.
- Identify who conducted the records search, and his/her affiliation.
- Describe the range of materials consulted during the records search (National Register of Historic Places, California Register of Historical Resources, California Inventory of Historic Resources, California Historical Landmarks, historical mapping, etc.).
- Define the area for which the records search was conducted (e.g., “a ½-mile radius”) and provide an explanation for the size and scope of the records search area. This area may vary depending on the environmental setting of the project area (e.g., research up and down a river rather than a half-mile diameter circle).

- Identify how much of the APE and surrounding areas previously has been surveyed.
- If previously recorded sites are present within the record search area, briefly describe sites that are within or close to the APE, or that are directly relevant for assessing the sensitivity of the APE.
- Append to the ASR any documentation of the records search, including any maps that were created.

Summary of others who were consulted

Identify any other institutions or agencies (e.g., U.S. Forest Service, Native American Heritage Commission) or individuals that were consulted for site records or other information, and describe the results.

Summary of Native American consultation

Summarize the methods and results of Native American consultation with all California Indian Tribes and/or individuals contacted, making sure to include the following:

- Identify methods of consultation (e.g., written letters, telephone calls, face-to-face meetings) and provide dates or refer to the appended contact log.
- Summarize any comments, issues and/or concerns expressed relating to resources within the project area, while respecting the confidentiality of specific information.
- Append to the ASR documentation of consultation (e.g., a copy of letters sent with recipients identified, correspondence received, contact logs, records of conversation, correspondence to and from Native American Heritage Commission). Include information given in confidence in a clearly labeled, separate appendix.

Background

The background section provides pertinent information to demonstrate a familiarity with the region under study and to provide context for the archaeological resources identified. The intent of the background section is to demonstrate that the author(s) of the ASR have conducted research on the project area and understand the environment, ethnography, prehistory, and history of the project area.

The detail in the background sections should be commensurate with the scale and scope of the undertaking, and with the abundance and significance of resources identified.

Research conducted for the background section should be limited. It is permissible to paraphrase and cite relevant discussions from previous works in the area. Original research should be limited to those projects that are in areas where no previous research has been conducted. As a document that reports on identification efforts, *the ASR is not the appropriate venue for exhaustive primary research*. If the ASR is an addendum to a previous ASR, the background discussion in the original ASR may be referenced, and the addendum ASR need only discuss any additional relevant background information.

Environment

- Present a concise description of the local environment, in order to provide a sense of place.
- Emphasize factors that may have affected use of the area by prehistoric and historic occupants, such as elevation, food or material resources, and proximity to water.

- Include relevant paleoenvironmental conditions, to the extent that they are known.
- Discuss environmental factors that may have limited the survival or visibility of archaeological remains, such as alluviation, erosion, or modern disturbance.
- Based on the information above, discuss the likelihood of discovering archaeological deposits, including buried archaeological deposits.

Ethnography

- Identify the ethnographic inhabitants of the study area.
- If the ethnographic affiliations are unclear in the area within which the study was conducted, list the various groups that may have been associated with it.
- Briefly note major ethnographic elements that may have shaped the local archaeological record, such as subsistence foci, settlement systems, social organization, and material culture.
- Cite key ethnographic references.

Prehistory

- Outline a standard prehistoric chronology for the region.
- Sketch the history of archaeological investigations in the region, with particular reference to studies close to the study area or concerning prehistoric sites similar to those identified in the study.
- The level of detail in this section should be commensurate with the scope of the project and with the abundance and types of resources found.

History

- Outline the historical chronology of the region, with particular reference to events close to the study area or themes related to historical archaeological site types identified in the study.
- The level of detail in this section should be commensurate with the scope of the project and with the abundance and types of resources found.

Field Methods

- Describe transect types and spacing, size of crew, and techniques used to ensure survey coverage.
- Discuss factors affecting lateral and ground surface visibility.
- Identify specific areas where coverage may have varied.
- Discuss techniques used to record sites and the methods used to define site limits and assess constituents.
- Include a survey coverage map in the maps section (discussed below).

Study Findings and Conclusions

Briefly describe and discuss each archaeological site in the study area, whether previously recorded or newly identified. Making sure to reference the survey coverage map and attached site records, address the following items, as appropriate:

- Location, with particular reference to the proposed project area and to an adjacent highway
- Areal extent, and the criteria used to determine the site limits

- Estimated areal density of cultural material (specifying how the measure was taken; e.g. "a maximum density of about 0.5 flake per square meter in any 5-meter-square area")
- Types, distribution, and estimated quantities of cultural materials, in particular chronologically sensitive artifacts (e.g., projectile points, beads, cans, bottles)
- Estimated depth of the cultural deposit, and the basis for the estimate (e.g., rodent holes, previous excavations)
- Types and distributions of surface features (e.g., bedrock mortars, house pits)
- Types and extent of disturbance
- Chronological and functional interpretations of the site
- Existing status of the site with respect to the National Register and other listings (for sites with previous National Register determinations, their status should be documented by appending to the report copies of National Register listing and/or previous SHPO concurrence regarding National Register status).

Other Resources

- If resources that were previously reported or anticipated were not found, discuss the possible environmental and cultural factors that may have hidden or destroyed those resource(s).
- Identify any non-archaeological resources that were encountered, and note whether they may require evaluation.
- Properties that meet the criteria in Attachment 4 "Properties Exempt from Evaluation," of the [Section 106 PA](#) or the [5024 MOU](#) for state-owned resources, may be discussed if necessary at this point and dismissed from further consideration.

Unidentified cultural materials

Include the following statement: If previously unidentified cultural materials are unearthed during construction, it is Caltrans' policy that work be halted in that area until a qualified archaeologist can assess the significance of the find. Additional archaeological survey will be needed if project limits are extended beyond the present survey limits.

References Cited

- Include only those references cited within the body of the report.
- Bibliographic format follows the most recent style guide for *American Antiquity*.

Maps

All maps are labeled with the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should feature a north arrow and a graphic scale. The following maps are attached to the report:

- *Study Vicinity Map*: Depict the location of the study on a county or district map.
- *Study Location Map*: Depict survey limits on the portion of the appropriate USGS topographic map. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.

sion. While the Survey Coverage Map will serve as the map of record for the project, the Study Location Map meets CHRIS Information Center guidelines and is important in guaranteeing that the survey coverage can be added to the CHRIS database.

- *Survey Coverage Map*: The base for this map may be a topographic or planimetric map or an aerial photograph. It may or may not include project information (e.g., APE, highway footprint). Most importantly, the map must be at a scale (e.g., 1": 200', 1": 100') that is sufficient to document clearly the limits of the area surveyed and the spatial relationship between sites and the study area.

Depending on the scale and scope of the project and/or the number and complexity of the properties located within or near the project area, it may be appropriate to include additional maps (e.g., a records search map).

Other Figures

Photographs are typically used to document archaeological sites but also can be extremely effective in depicting the environmental setting of the study area and/or the spatial relationship between archaeological sites and existing transportation facilities. Original or digital prints are likely to be more useful than photocopies, and digital prints have the additional advantage of being easily labeled and enhanced using imaging software such as Adobe Photoshop or Microsoft PowerPoint.

Site Records

A primary record, a site record, and feature records, as appropriate, should be appended to the ASR for all sites identified within the survey area. For previously recorded sites, all previous site records should be included, in addition to any current updates. It is not necessary to include site records for all sites identified during the records search (i.e., within the whole search radius), only for those sites that have the potential to be affected by the project or that are crucial in understanding the archaeological sensitivity of the study area.

Peer Review and Approval

Caltrans PQS certified at the Co-Principal Investigator level or higher must peer review the draft ASR following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.25.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS may review ASRs for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the ASR signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS at the Co-Principal Investigator level or higher reviewing the ASR for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the ASR by signing and dating the document. See [Chapter 5](#) Section 5.4.6.2 for more detailed information.

Exhibit 5.2: Extended Phase I Proposal Format and Content Guide

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Exhibit 5.2: Extended Phase I Proposal Format and Content Guide

Extended Phase I Proposal Format

An Extended Phase I (XPI) study is an extension of the identification phase for archaeological resources, meeting the requirements of 36 CFR 800.4(b), “to identify historic properties within the area of potential effects,” and similar requirements under CEQA. The XPI Proposal is used to explain the reasons for the XPI study, to describe the proposed field methods, and will be used as the basis for determining when the study goals have been met and fieldwork can cease. Refer to [Chapter 5](#), Section 5.5 for a complete discussion of Extended Phase I studies.

Title Page

- In the title, identify the document as a proposal for an XPI excavation and cite the primary number and trinomial for the site.
- Below the title identify the proposed highway project by name (e.g. "Proposed Truck Passing Lane") and identify the district, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Tance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level as described in [Section 106 PA Attachment 1](#),² and location of the proposal author(s). The senior author signs the title page of the final document.

XPI PROPOSAL FORMAT

- Title page
- Table of Contents (optional)
- Introduction
- Site Context
- Scope of Work
- Decision Thresholds
- Timetable
- Native American Coordination
 - (Prehistoric sites)
- Curation
- Archaeological Permits
- References Cited
- Maps
- Other Figures
- Site Record Forms

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

² For state-owned cultural resources use [Attachment 1](#) of the 2015 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. ([5024 MOU](#)).

- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. The EBC approves the proposal by signing the title page in his/her signature block.
- Provide the date (month and year) of completion of the proposal at the bottom of the page.

Table of Contents

A table of contents is usually not necessary for the XPI proposal, since it is limited to a few pages. If the report is large enough to make a table helpful, list the major report sections subheadings, appendices, tables, and figures, with page numbers.

Introduction

- Briefly describe the site.
- Explain why an XPI study is needed (see relevant discussions in [Chapter 5](#) and [Chapter 6](#)), referencing the National Historic Preservation Act (NHPA), 36 CFR 800, and/or CEQA, as appropriate.
- If the XPI is to verify a lack of subsurface deposit, briefly explain the argument for this supposition.
- Summarize the goals of the study.

Site Context

- If a positive ASR has been prepared for this project, reference its background sections.
- If background information has not been presented in a previous report, provide a limited background and appropriate citations of relevant regional and local studies.
- Provide information relevant to understanding the site and expected archaeological deposits, and briefly discuss the types of research issues sites of this nature might be able to address.

Scope of Work

- Briefly describe the proposed field methods, including the types, numbers, and placement of units, and the screen size(s) proposed.
- Discuss any problems or special conditions that might require modification of the proposed work program.
- Discuss the key personnel and number of crewmembers, their qualifications and estimated duration of their participation.

Decision Thresholds

This section defines specific thresholds for assessing when the goals of the study have been met.

- Discuss the potential findings that would justify a conclusion that a substantial subsurface deposit is not present in the areas being tested, or that the deposit is so disturbed that it would no longer have the potential to contribute to eligibility for the site as a whole.
- Discuss the potential findings that would justify a conclusion that an intact deposit is present, and that further evaluation of the site may be required.
- Discuss circumstances under which additional XPI effort might be needed to achieve the study goals.

Timetable

- Provide a schedule for completion of the proposed work. This timetable may be presented in text or graphic form (e.g., as a timeline).
- Include the start date and the duration of fieldwork, laboratory processing, and report preparation.
- Include any arrangements for gaining permission to conduct the study, including any necessary permits.

Native American Coordination (for Prehistoric Archaeological Sites)

- Describe the previous and anticipated future involvement of Native Americans through consultation and monitoring.
- Explicitly identify action to be taken if human bone, associated grave goods, or sacred objects are found.

Curation

- Indicate the facility that will curate the cultural materials recovered and the accession number, if known. If arrangements with a facility cannot be completed prior to work, identify how and where materials will be maintained until an agreement is reached
- If recovered materials will not be curated, provide details of any discard policy that will be used.

Archaeological Permits

- Discuss any permits that may be needed to conduct the work.
- Include permit acquisition in the timetable discussed above in the Timetable.

References Cited

- A bibliography is usually not necessary, but any references in the text should be listed.
- Citations may follow the most recent style guide for *American Antiquity*.

Maps

All maps should display the district, county, route, postmiles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should have north arrows and scales.

- *Project Vicinity Map*: Indicate the site location on a county or district map.
- *Project Location Map*: Indicate the site location on a portion of the appropriate USGS topographic quadrangle. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- *Site Map*: This map should be scaled to show detail at 1": 200' or better and can be based on an aerial photograph or engineering map. Show the known site boundaries in relation to the APE/ADI, as well as the portion of the site to undergo XPI excavation. If possible, depict proposed excavation locations.
- *Other Graphics*: It may be useful to include additional photographs, engineering cross sections, as-builts or other materials to illustrate project area conditions and support the proposal.

Site Record Forms

Attach all primary and site record forms available for the site, including initial and updated forms.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the draft XPI Proposal following the guidelines in [Exhibit 2.13](#): Guidelines for Peer Review of Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS may review XPI Proposals for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the XPI Proposal signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS at the Principal Investigator level reviewing the XPI Proposal for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the XPI Proposal by signing and dating the document. See [Chapter 5](#) Section 5.5.2 for more detailed information.

Exhibit 5.3: Extended Phase I Report Format and Content Guide

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Exhibit 5.3: Extended Phase I Report Format and Content Guide

Extended Phase I Report Format

The Extended Phase I (XPI) Report addresses the issue for which the work was undertaken, including the site limits to the project's Area of Potential Effects (APE) and/or Area of Direct Impact (ADI), and the integrity of the deposit within the APE or ADI. Refer to [Chapter 5](#), Section 5.5 for a complete discussion of XPI studies.

Title Page

- In the title, identify the document as an XPI Report and cite the primary number and trinomial for the site.
- Below the title, identify the highway project by name (e.g., "Proposed Truck Passing Lane") and reference the district, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) Level as described in [Section 106 PA Attachment 1](#)², and location of the report author(s). The senior author signs the title page of the final document.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. The EBC approves the report by signing the title page in his/her signature block.
- If a government permit for the excavation was issued, provide the name of permitting agency and the permit number.

XPI REPORT FORMAT

- Title page
- Summary of Findings (Abstract)
- Table of Contents (optional)
- Introduction
- Site Context
- Scope of Work
- Study Results
- Summary and Conclusions
- References Cited
- Maps
- Other Figures
- Tables
- Site Record

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

² For state-owned cultural resources use [Attachment 1](#) of the 2015 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. ([5024 MOU](#)).

- Cite the USGS topographic quadrangle depicting the site area. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- List the primary number, trinomial, and any other permanent designations for the site.
- Provide the date (month and year) of completion of the report at the bottom of the page.

Summary of Findings (Abstract)

Summarize the intent, methods, scope, and major findings of the study.

Table of Contents

List the major report sections, subheadings, appendices, tables, and figures, with page numbers.

Introduction

Concisely describe or discuss:

- Proposed highway project
- Brief history of the project as it pertains to the site
- Nature and purpose of the archaeological investigation
- Dates of fieldwork
- Names, titles, and qualifications of the personnel participating in the study
- Any permits and permission obtained
- Arrangements for curation of the collection
- Disposition of any human bone, associated grave goods, or sacred objects
- Scope and results of Native American consultation and monitoring (for prehistoric sites only)

Site Context

- If the ASR for this project has positive findings, reference its background sections. Only newly relevant citations or changes in information previously provided should be discussed.
- If background information has not been presented in a previous report, provide a brief summary and appropriate citations of relevant regional and local studies, following the content and format guidelines for background information contained in ASRs (see [Exhibit 5.1](#)).

Scope of Work

The scope of work discussion should:

- Describe the study plan outlined in the proposal

- Identify the methods used in fieldwork
- Discuss methods used to define site limits or the deposit's depth
- State the number of person-hours expended
- Describe measures taken to restore excavated areas to their previous appearance
- Reference the study maps

Study Results

Describe and discuss the:

- Extent of the site in terms of both horizontal boundaries and depth, as far as those are known
- Excavated soil types and stratigraphy
- Integrity of the cultural deposit, including discussions of any disrupting intrusions (e.g., roads, vandalism) that have changed the site's condition or affected its integrity
- Presence/absence of sub-surface features
- Artifacts and ecofacts recovered, including total counts and/or weights and distributional data by test unit and by depth for each unit and data class
- Temporal placement and functional interpretation of the site
- (For historical archaeological site artifacts), description and enumeration by functional class and material type, including summaries of minimum numbers of items within individual features. In addition, the period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation.

Summary and Conclusions

- Summarize the results of the study in terms of the stated study goals.
- Discuss the degree to which those goals were achieved, and any limiting factors.

References Cited

- List all references cited.
- Bibliographic format should follow the most recent style guide for *American Antiquity*.

Maps

All maps should display the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number).. The Study Location Map and Study Site Map should have north arrows and graphic (analog) scales.

- *Study Vicinity Map*: Depict the location of the study area on a county or District map.

- *Study Location Map*: Depict the site location on a portion of the appropriate USGS topographic quadrangle. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- *Study Site Map*: This map should be scaled to show detail, at least 1” : 200'. An aerial photograph or engineering mapping may be used as a base map. Show the pertinent portion of the APE/ADI, right-of-way, site boundary, surface features, and locations of all study units (e.g., excavation units, surface scrapes, auger holes). Show topography and modern features, as appropriate.
- *Project Graphics*: Include additional photographs, engineering cross sections, as-builts or other materials that illustrate project area conditions and the relationship of proposed project elements to the study finds.

Other Figures

There may be few figures in the report because, normally, little is found in XPI studies. Appropriate figures may include:

- Sidewall profiles
- Feature diagrams
- Graphs and charts on recovered materials
- Artifact illustrations
- Photographs to illustrate testing work, features, and artifacts, as appropriate

Tables

Tables should be used to summarize the:

- Types, sizes, and depths of excavation units
- Distributions of artifacts, ecofacts, and features

Site Record

An updated site record should be appended, documenting the findings of the work.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the draft XPI Report following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS may review XPI Reports for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the XPI Report signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS at the Principal Investigator level reviewing the XPI Report for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the XPI Report by signing and dating the document. See [Chapter 5](#) Section 5.5.6 for more detailed information.

Exhibit 5.4: Archaeological Evaluation Proposal (Phase II) Format and Content Guide

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Exhibit 5.4:

Archaeological Evaluation Proposal (Phase II) Format and Content Guide

Archaeological Evaluation Proposal (Phase II) Format

An Archaeological Evaluation Proposal (AEP), also referred to as a “Phase II Proposal,” states the goals of the study, and clearly links the anticipated field and laboratory work to those goals. It is prepared and peer-reviewed by qualified prehistoric archaeologists and approved by the District Environmental Branch Chief (EBC) prior to excavations. Refer to [Chapter 5](#) Section 5.6 for a general discussion of archaeological evaluation (Phase II) studies.

Title Page

- In the title, identify the document as Archaeological Evaluation Proposal and cite the primary number and trinomial for the site.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level as described in Section 106 PA Attachment 1,² and location of the proposal author(s). The senior author is to sign the title page of the final document.

ARCHAEOLOGICAL EVALUATION (PHASE II) PROPOSAL FORMAT

Title page
Table of Contents
Introduction
Background
Research Design and Work Plan
Research Design and Work Plan
– Special considerations for Historical Archaeological Sites
Curation Plan
Native American Coordination
– Prehistoric Sites Only
References Cited
Maps
Site Record
Budget
Other Appendices

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

² For state-owned cultural resources use [Attachment 1](#) of the 2015 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. ([5024 MOU](#)).

- Provide the name, title, and location of the EBC for whom the report was prepared. Approval of the proposal is documented by the EBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

Table of Contents

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

Introduction

Concisely describe or discuss the

- History of the proposed project as it pertains to the site
- Status of Section 106/CEQA compliance
- Goals of the proposed archaeological work
- Character and condition of the site, as currently known
- Any other information necessary to introduce the proposal

Background

Present background information under the following headings:

- A. Environment / Paleoenvironment
- B. Ethnography
- C. Archaeology
- D. History

The level of detail in each subsection should be scaled to the scope of the study. Focus on regional research issues and how these may be addressed at the site. Provide a context for the development of regional research topics to be fully developed in the subsequent research design and National Register evaluation sections.

Research Design and Work Plan

The research design is the core of the proposal. It should present a well-reasoned discussion of the research topics to be addressed at the site, their relationship to the study goals, and the specific methods and techniques to be used to meet these objectives. Research strategies should be flexible enough to be modified during fieldwork and post-field analyses. Contingencies should be built into the research design.

All research designs share elements in common; however, the distinction between AEPs (Phase II) and Archaeological Data Recovery (Phase III) proposals reflects the current state of knowledge on a particular site. Generally, since little is known about the specific site(s) under investigation, the proposed AEP research design must be broad and preliminary, containing research topics to be studied by data that may be expected in the site type under investigation. For an archaeological data recovery excavation, the specific data categories that the site is known to contain, based on prior excavation and analysis, and focuses the investigation on specific research questions that allow for a more sophisticated and elegant study. Shared elements include:

A. Theoretical / methodological orientation

B. Management goals (Note: the focus should be on those portions of the site within the Area of Direct Impact (ADI))

- Define the horizontal and vertical extent of the site
- Identify the types and quantities of cultural materials present
- Identify and date all components present
- Assess the physical integrity of the site
- Assess the National Register eligibility/CEQA significance of the site
- Provide data to assess the proposed project's effects on the site

A. Research goals

- Describe relevant research topics, and show how they may be realistically addressed through the limited amount of excavation to be undertaken

D. Methods

- Describe the pre-field, field, and laboratory programs and how they are suited to recover the types and quantities of data needed to meet the study's objectives

E. Permits

- Discuss any permits that are needed to conduct the archaeological work and explicitly identify the party responsible for obtaining them

F. Organization

- Describe measures to ensure that the work will be of high quality and completed on schedule
- In so far as they are known, identify the principal investigator, crew chiefs, and analytical specialists
- Describe the participants' degree of involvement in percentage of their time devoted to the project and the number of hours they will devote to each phase of work
- Describe any arrangements that have been made with sub-consultants

G. Schedule:

- Specify milestone dates for obtaining permits, fieldwork, laboratory processing, analyses completion, and report submittals
- Estimate the time required for each task and the number and duties of people involved
- Specify maximum and minimum excavation amounts and the situations that could trigger an increase or decrease in the amount of excavation (e.g., presence of burials, disturbed strata)

Research Design and Work Plan – Special Considerations for Historical Archaeological Sites

The research design defines the broad historic context, specific research topics, and data requirements that will be used to complete the evaluation of a historical archaeological site whose eligibility for the National and California registers cannot be determined without excavation. The scope of the research design will vary, depending on whether it is prepared to justify an Extended Phase I study, Archaeological Evaluation or Data Recovery. The essential elements of the research design include:

A. Historic Context:

This subsection establishes the historic context, general research themes, and theoretical/methodological orientation for the proposed study.

B. Previous Research:

This subsection summarizes previous historical and historical archaeological findings concerning the research themes relevant to the site-specific context.

C. Definition of Specific Research Topics and Data Requirements:

The specificity of the research topics will depend on how much is already known about the resource, the objective of the proposed study, and the findings made during previous research

of similar topics and site types. The topics should consist of important historical questions that are likely to be addressed with data from the resource, taking into consideration the scope of the proposed work.

D. Health and Safety:

Specific health and safety issues must be considered when planning work at historical archaeological sites, particularly those likely to contain hazardous wastes or dangerous working conditions. Plans should be formulated to reduce field and laboratory hazards and promptly address health and safety concerns that arise during the proposed work. A formal Health and Safety Plan prepared by a Certified Industrial Hygienist may be required when work is planned in areas known to contain hazardous wastes.

Curation Plan

- Specify the facility that will curate the recovered cultural materials and, if known, the accession number under which they will be curated. If arrangements with a facility cannot be completed prior to work, identify how and where materials will be maintained until an agreement is reached
- If any recovered materials will not be curated, provide details of any discard policy that will be used
- Attach a curation agreement, if possible

Native American Coordination – Prehistoric Sites Only

- Describe the previous and anticipated future involvement of the Native Americans through consultation and monitoring
- Identify actions to be taken if human bone, associated grave goods, or sacred objects are found

References Cited

List all references cited in the proposal text. Bibliographic format should follow the most recent style guide for *American Antiquity*.

Maps

All maps should display the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should feature a north arrow and a graphic scale. The following maps should be attached to the report:

- *Study Vicinity Map*: depict the location of the Study on a county or district map.

- *Study Location Map*: depict study location on portion of the appropriate USGS topographic map. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- Attach a map that shows the site boundaries in relation to the Area of Potential Effects (APE) and the ADI, as well as the portions of the site where Phase II excavations are proposed. Ideally, the map will indicate proposed locations of different types of excavation activities (shovel testing, control units, backhoe trenching or grading, etc.). The base for this map may be a topographic or planimetric map, or an aerial photograph. Most importantly, the map must be at a scale that is sufficient (e.g., 1":200') to allow for the clear depiction of the spatial relationship between the undertaking and the location of the proposed test excavations.
- *Other Graphics*- it may be useful to include additional photographs, engineering cross sections, as-builts or other materials to illustrate project area conditions and support the proposal.

Site Records

Attach copies of initial site record and all site record updates for each site where testing is proposed.

Budget

Attach a budget that lists all personnel, time, and estimated costs. The budget should be broken down into different activity types so that the costs of different phases of work can be clearly identified.

Other Appendices

Information on specialized analyses and résumés of key personnel may be attached.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the draft AEP following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS may review AEPs for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the AEP signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS at the Principal Investigator level reviewing the AEP for approval likewise signs, dates, and includes

his/her PQS discipline, level and District. Finally, the EBC approves the AEP by signing and dating the document. See [Chapter 5](#) Section 5.6.5 for more detailed information.

Exhibit 5.5: Archaeological Evaluation Report (Phase II) Format and Content Guide

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Exhibit 5.5: Archaeological Evaluation Report (Phase II) Format and Content Guide

Archaeological Evaluation Report (Phase II) Format

The Archaeological Evaluation Report (AER) provides the basis for determining whether a site is eligible for inclusion in the National Register of Historic Places (National Register) or is a historical resource under CEQA. It also may document whether the proposed project will adversely affect eligible properties. Refer to [Chapter 5](#) Section 5.6 for a general discussion of archaeological evaluation (Phase II) studies.

Title Page

- In the title, identify the document as an Archaeological Evaluation Report, and cite the primary number and trinomial for the site(s).
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level as described in Section 106 PA Attachment 1,² and location of the report author(s). The senior author is to sign the title page of the report.

ARCHAEOLOGICAL EVALUATION (PHASE II) REPORT FORMAT

- Title page
- Summary of Findings (Abstract)
- Table of Contents
- Acknowledgments
- Introduction
- Site Context
- Research Design
- Field and Laboratory Methods
- Study Results
- National Register Eligibility
- Summary and Conclusions
- References Cited
- Maps
- Tables and Other Figures
- Appendices

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

² For state-owned cultural resources use [Attachment 1](#) of the 2015 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. ([5024 MOU](#)).

- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. Approval of the report is documented by the EBC's signature on the title page.
- If an agency permit was required, provide the name of the permitting agency and the permit number.
- Cite the USGS topographic quadrangle depicting the study area.
- List the site's primary number, trinomial, and any other permanent designations.
- The date (month and year) of completion of the report appears at the bottom of the page.

Summary of Findings (Abstract)

- Summarize the purpose, scope, methods, and results of the study.
- Briefly discuss the National Register significance of the site, and the location of site boundaries in relation to the proposed highway project.

Table of Contents

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

Acknowledgments

Provide information as appropriate.

Introduction

Concisely describe or discuss the

- Proposed highway project
- Nature and purpose of the archaeological investigation
- Dates of fieldwork
- Names, titles, and qualifications of the supervisory personnel participating in the study
- Any permits or permission obtained
- Arrangements for curation of the collection
- Disposition of any human bone, associated grave goods, or sacred objects
- Scope and results of Native American consultation and monitoring
- Other information, as necessary, to introduce the report, such as a brief history of the proposed project as it pertains to the site

Site Context

- Place the site in the regional context for which the research design was developed and within which the cultural remains are interpreted.
- Provide pertinent information on present-day environment, paleoenvironment, ethnography, archaeology, and history.
- The content of this section will vary significantly depending on whether prehistoric or historic-period archaeological resources are evaluated (e.g., little or no treatment of paleoenvironment or ethnography for historic period sites).

Research Design

- State the core research design from the (previous) Archaeological Evaluation Proposal.
- If unexpected discoveries were made during fieldwork, the research design may be substantially revised; identify these changes and address as appropriate.

Field and Laboratory Methods

- Describe the methods and techniques used in the field and laboratory.
- If detailed discussions of analytical methods are contained in appendices, present the methods of analysis in a general fashion here in the main text.

Study Results

Prehistoric Sites

In reports addressing multiple sites, each site usually is discussed in a separate chapter. However, chapters alternatively may be organized in part or entirely along topical lines (e.g., chronology, soils, features, etc.), if doing so aids in clarity of presentation.

Describe in detail the characteristics of the site and their interpretation. Discuss modifications to the interpretation of the site's chronology, function, and affiliation as a result of these studies.

Describe and discuss:

- Previous archaeological investigations at the site
- Site type (e.g., midden, rock shelter, flake scatter)
- Chronological placement
- Ethnographic affiliation, with any documentary references
- Site boundaries and extent (horizontal and vertical), including the methods by which these were defined

- Characteristics of the immediate environment, and paleoenvironmental characteristics, if known
- Site integrity, and any known disturbances
- Site deposit (soil types, chemistry, color, stratigraphy), with profiles of representative or interpretively important excavation units
- Features; including their locations, dimensions, attributes, and associations
- Artifacts, including description of the typologies used, with sufficient detail for their replication and for evaluation of their interpretive relevance, and discussion of artifact distributions by class/material (e.g., flaked stone, ground stone, shell artifacts, bone artifacts, and historic materials) and type
- Results of special analyses (evidence on manufacture and use, obsidian sourcing, obsidian hydration, protein residues, etc.)
- Non-artifactual constituents (faunal and floral remains)
- Human bone, including its physical condition, associations (including photographs and drawings, if appropriate), circumstances of discovery, and handling and disposition (making reference to relevant laws and agreements, and to the individuals involved, including the county coroner, Native American Heritage Commission, Most Likely Descendant, other local Native American representatives, landowner, and other interested parties)

Historic Sites

Information in the site reports must reflect its status as a historical archaeological site, as follows:

- Site type (e.g., homestead, mining camp, urban-commercial), including historical references
- Site boundaries (horizontal and vertical), including the methods by which these were defined
- Pertinent aspects of historical and archaeological background studies
- Environment
- Known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity
- Summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s])
- Previous archaeological investigations at the site

- Artifacts should be described and enumerated by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation

National Register Eligibility

Address the applicability of each of the National Register criteria to the site (discussions of criteria that are clearly not applicable may be brief, but always should be included with a brief explanation as to why the criterion is not applicable).

- If the site appears to be eligible, provide an explanation of how the site is eligible under the applicable National Register Criteria.
- If the site appears to be eligible under criterion A, B, or C, make sure to discuss the role of setting as an element that contributes to the site's eligibility.
- Discuss site integrity as it relates to each selected criterion.
- Discuss the range of cultural materials present at the site and the range of data likely to be generated by future study. Some classes of data may have been documented by previous investigations, while others may be inferred, based on knowledge of similar sites. Provide the rationale and references supporting such inferences.
- Identify the chronological components that contribute to the site's significance, as well as those that do not contribute (if applicable).
- Identify and provide justification for contributing and non-contributing areas of the site, and indicate whether the contributing areas are within the proposed project's Area of Direct Impact (ADI).
- Discuss the relationship between the data available at the site and important research topics that the data might address. Minor amounts of data on a wide range of topics may contribute to the site's eligibility. Discuss the importance of the research topics within the broader regional perspective.
- If the site appears to be eligible, provide a summary paragraph that contains the name of the resource, the applicable criteria with a brief statement as to how the site meets those criteria, period and level (local, state, national) of significance. This summary paragraph is what will be used in effect documents, as well as environmental documents.

Summary and Conclusions

- Briefly summarize the results of the investigation, in terms of management and research goals.

- Note contributions to the understanding of regional prehistory or history.
- Indicate conclusions concerning National Register eligibility and project effects.

References Cited

- List all references cited in the report.
- Bibliographic format should follow the most recent style guide for American Antiquity.

Maps

All maps should display the District, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should include north arrows and graphic scales.

- Study Vicinity Map: Point to the vicinity of the study area on a county or District map.
- Study Location Map: Depict the site location on the appropriate USGS topographic map.
- Study Site Map: This map should be scaled to show detail, at least 1": 200'. An aerial photograph, detailed engineering/contour map, etc. can be used as a base map. Show the site boundary, topography, modern features, location of cultural surface features and all study units (e.g., excavation units, surface scrapes, auger holes, etc.), and the pertinent portion of the project's Area of Potential Effects and ADI.

Tables and Other Figures

Incorporate tables and figures within the text, as appropriate, to document the work performed, its results, and its interpretation.

Tables should summarize:

- Units excavated (their size, depth and volume)
- Horizontal and vertical distributions of artifacts, ecofacts, and features
- Interpretively significant attributes of artifacts, ecofacts, and features
- Other information as appropriate

Information presented in the tables should not be repeated in the text, except as required for interpretive discussions.

Figures may include:

- Sidewall profiles
- Feature plans
- Graphs and charts
- Artifact drawings

Photographs may show:

- General overviews of the site and its relation to the highway
- Study techniques and/or field methods
- Site features
- Excavation sidewalls
- Artifacts

Other Graphics

It may be useful to include additional photographs, engineering cross sections, as-builts or other materials to illustrate project area conditions and support the findings.

Appendices

- Specialized Analysis Reports
- Updated Site Record, as well as previous site records

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level or higher must peer review the draft AER following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS may review AERs for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the AER signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the AER for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the AER by signing and dating the document. See [Chapter 5](#) Section 5.6.9 for more detailed information.

Exhibit 5.6: Data Recovery Plan Format and Content Guide

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Exhibit 5.6: Data Recovery Plan Format and Content Guide

Data Recovery Plan Format

Refer to [Chapter 5](#) Section 5.8 for a general discussion of archaeological data recovery studies, also referred to as "Phase III" work.

The following information is provided to assist with archaeological data recovery plan preparation. The data recovery plan (DRP), is included as a technical appendix to the Finding of Effect (FOE) and/or the Memorandum of Agreement (MOA), which is submitted to the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP) for review and approval. The DRP is different from a proposal in that it provides enough information for SHPO and the ACHP to allow for their concurrence on Caltrans' general level of effort, but does not contain detailed discussions of project schedule, personnel, or cost. The DRP's purpose is to demonstrate to SHPO and the ACHP that the level of effort appears justified and the expected costs are not unreasonable.

DATA RECOVERY PLAN FORMAT

- Title page
- Table of Contents
- Introduction
- Site Description
- Site Significance / Research Issues
- Proposed Investigation
- Public Outreach Plan
- Native American Coordination
- Personnel
- Curation
- Permits
- Anticipated Scope and Schedule
- References Cited
- Maps
- Appendices

The plan should include at minimum the sections outlined below.

Title Page

- In the title, identify the document as a Data Recovery Plan; cite the primary number and trinomial of the site, and the name of the transportation project.
- Below the title, identify the proposed highway project and reference the District, county, route, post mile, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170").

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- Provide the name, title, and location of the plan's author(s). The senior author is to sign the title page of the plan.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the plan was prepared. Approval of the plan is documented by the EBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

Table of Contents

List the major sections, subheadings, appendices, tables, and figures, with page numbers.

Introduction

- Discuss the goals of the study and the general nature of the research plan.
- Identify the site(s) by primary number and trinomial.
- Identify the National Register status of the site(s).
- State why the DRP is required (e.g., compliance with NHPA and the [Section 106 PA](#)², CEQA³, and for state-owned cultural resources compliance with Public Resources Code 5024 and the [5024 MOU](#)⁴).

Site Description

Concisely describe and discuss:

- General topographic setting
- Dimensions
- Spatial relationship between the site and the project's Area of Potential Effects (APE) and Area of Direct Impact (ADI)
- The general nature of artifacts and ecofacts found during prior investigations
- Archaeological features
- Temporal components and their chronological placement (for historic-period sites, discuss the site's relationship to broader historical themes)

² 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California

³ Compliance with CEQA is discussed when Caltrans is the CEQA lead agency.

⁴ 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.

- Functional interpretation (i.e., site type)

Refer reader to technical reports, as appropriate, for more detailed information.

Site Significance and Research Issues

- Explicitly state that the site is eligible for inclusion in the National Register under criterion D.
- Discuss under the appropriate subsections the research issues to which the site has the potential to contribute significant additional information (e.g., Chronology, Settlement Systems, Exchange, etc. for prehistoric sites, and specific historical themes for historic-period sites).
- State what site constituents are important for generating the data to address the research questions including explicit links between the data expected and the proposed research goals. Pursuant to [Section 106 PA Attachment 6](#)⁵, discuss how the public's interest is served through the recovery of data related to the proposed research questions and themes.

Proposed Investigation

Discuss the general plan and procedures for all stages of the investigation. The discussion of methods and data needs identified must demonstrate cost effectiveness and be specifically linked to the research questions. Discuss in the appropriate subsections the provisions made for the following:

A. Additional background research (if needed)

B. Field investigations

- *Mapping*: Identify how the site and features will be mapped and how the archaeological work will be documented.
- *Surface collection*: Indicate areas and types of materials to be collected, and methods for documenting provenience.
- *Excavation*: Identify excavation methods (manual, mechanical), amount of excavation (square and/or cubic meters; maximum and minimum), unit size, sorting method (wet, dry), screen size, and the records to be kept. Include a discussion of any special methods required for anticipated archaeological features.

⁵ For state-owned cultural resources use [Attachment 6](#) of the [5024 MOU](#).

C. Laboratory processing

- *Cataloging*: State that all recovered material will be cleaned appropriately and cataloged following current professional standards and the requirements of the curation facility.
- *Analytical studies*: Discuss expected analytical studies (e.g., chronometric, lithic, soil studies), and allow for other analytical studies if appropriate materials are recovered.

D. *Reporting*: Indicate that a final report will be prepared, documenting and interpreting the results of the data recovery program.

Public Outreach Plan

- Discuss and identify specific measures for disseminating the results of the program to professionals and to the public
- As in other aspects of site testing and data recovery, outreach efforts should be commensurate with the scope and scale of the project, and the nature and significance of the historic property

Native American Coordination

- Describe the previous and anticipated future involvement of Native Americans through consultation and monitoring.
- Describe the actions to be taken if human bone, associated grave artifacts, or items of cultural patrimony are found.

Personnel

- State that the data recovery program will be conducted and/or overseen by archaeologists meeting the Caltrans Professionally Qualified Staff (PQS) standards as identified in [Section 106 PA Attachment 1](#)⁶.
- State that, if appropriate, the services of specialists will be obtained as necessary.

Curation

- Specify the facility that will curate the recovered cultural materials.
- Provide the accession number, if known.

⁶ For state-owned cultural resources use [Attachment 1](#) of the [5024 MOU](#).

Permits

Discuss any permits that are needed to conduct the archaeological work. These may include federal or state permits, private landowner's permission, and Caltrans' encroachment permits.

Anticipated Scope and Schedule

Discuss anticipated funds required, timing and duration of proposed work, and any subsequent planning, such as the development of a Phase III proposal (see [Chapter 5 Section 5.8.4](#)). While specific costs and personnel may not be known at the time a DRP is prepared, an estimate is needed to inform agency commitments documented in an MOA.

References Cited

- List all references used in the Data Recovery Plan text.
- Bibliographic format should follow the most recent *American Antiquity* style guide.

Maps

All maps should display the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should feature a north arrow and a graphic scale. The following maps should be attached to the report.

- *Study Vicinity Map*: Depict the location of the Study on a county or district map.
- *Study Location Map*: Depict study location on portion of the appropriate USGS topographic map. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- Attach a map that shows the site boundaries in relation to the APE/ADI, as well as the portions of the site where Phase III excavations are proposed. Ideally, the map will indicate proposed locations of different types of excavation activities (shovel testing, control units, backhoe trenching or grading, etc.). The base for this map may be a topographic or planimetric map, or an aerial photograph. Most importantly, however, the map must be at a scale that is sufficient (e.g., 1":200', 1":100') to allow for clearly depicting the spatial relationship between the transportation project and the proposed test excavations.
- *Other Graphics*: Include additional photographs, engineering cross sections, as-builts or other materials to illustrate project area conditions and support the proposal.

Appendices

- Updated site records for each site where testing is proposed
- Native American Monitor agreements
- Curation agreements
- Other materials as appropriate

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the draft DRP following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and Exhibit 2.11 Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level may review the final DRP for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the DRP signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the DRP for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the DRP by signing and dating the document. See Chapter 5 Section 5.8.3 for more detailed information.

Exhibit 5.7:

Archaeological Data Recovery (Phase III)

Proposal Format and Content Guide

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Exhibit 5.7:

Archaeological Data Recovery (Phase III) Proposal Format and Content Guide

Archaeological Data Recovery (Phase III) Proposal Format

The Archaeological Data Recovery Proposal, also referred to as a "Phase III Proposal," is different from the Data Recovery Plan (DRP) in that it builds on the DRP research design, and provides a work plan with more detailed information concerning project schedule, personnel, and cost. Refer to [Chapter 5](#) Section 5.8 for a general discussion of archaeological data recovery studies.

Title Page

- In the title, identify the document as a Phase III Proposal, and cite the primary number and trinomial for the site.
- Below the title, identify the proposed highway project and reference the District, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level, and location of the proposal author(s) meeting the Caltrans PQS standards as identified in [Section 106 PA](#)² [Attachment 1](#), and for state-owned cultural resources [5024 MOU Attachment 1](#).³ The senior author is to sign the title page of the final proposal.

ARCHAEOLOGICAL DATA RECOVERY (PHASE III) PROPOSAL FORMAT

- Title page
- Table of Contents
- Introduction
- Background
- Environment/Paleoenvironment
Ethnography
Archaeology
History
- Research Design
- Organization and Personnel
- Schedule
- Native American Coordination
- Permits
- Curation
- References Cited
- Maps
- Appendices

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

² 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.

- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the proposal was prepared. Approval of the proposal is documented by the EBC's signature on the title page.
- Provide the date (month and year) of completion of the proposal at the bottom of the page.

Table of Contents

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

Introduction

- Provide a brief history of the proposed project as it pertains to the site.
- Demonstrate an understanding of the nature of the project, the project's regulatory context, and the work required.
- Discuss the goals of the proposed archaeological work.
- Include any other information necessary to introduce the proposal.

Background

The content of this section will vary considerably depending on whether prehistoric or historic-period archaeological resources are being addressed. For example, less discussion of the environmental context is typically required for historic-period sites and little or no treatment of historical background needed for prehistoric sites.

- Present background information under the following headings: Environment/Paleoenvironment, Ethnography, Archaeology and History.
- Focus on regional research issues and how these may be addressed at the site.
- Demonstrate familiarity with the study area, the type of site under study, and the published and unpublished literature of the area.

Research Design

The research design is the core of the proposal. It should present a well-reasoned plan that discusses the research objectives of the study and the specific methods and techniques to be used to meet these objectives. Research strategies should be flexible enough to be modified during fieldwork and post-field analyses, and contingencies should be built into the research design. Because the data recovery research design is

³ 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.

based on prior excavations and analyses, it should focus on specific questions in a more sophisticated and elegant manner than a test excavation research design.

A. Theoretical / methodological orientation

B. Research questions:

- Identify archaeological research topics that are important to regional prehistory and that the site can be expected to significantly address.
- Discuss the hypotheses and test implications that will be addressed by the data recovery program.
- Discuss how expected data will relate to each test implication and specify the data sample sizes necessary to resolve each issue.

C. Methods

- Describe the pre-field, field, and laboratory programs and how they are suited to recover the types and quantities of data needed to meet the study's objectives.

Organization and Personnel

- Describe measures to ensure that the work is of high quality and completed on schedule.
- Identify the principal investigator, field director, crew chiefs, and analytical specialists, if they are known.
- Describe the key participants' degree of involvement in terms of the percentage of time devoted to the project and the number of hours they will devote to each phase of work.
- Describe any arrangements that have been made with sub-consultants.

Schedule

- Specify milestone dates for obtaining permits, fieldwork, laboratory processing, analysis completion, and report submittals.
- Estimate the time required for each task and the number and duties of people involved.
- Specify maximum and minimum excavation amounts, as well any situations that could trigger an increase or decrease in the amount of excavation (e.g., presence of burials, disturbed strata).

Native American Coordination

- Describe the previous and future involvement of Native Americans through consultation and monitoring.
- Describe the actions to be taken if human bone, associated grave artifacts, or items of cultural patrimony are found.

Permits

Discuss any permits that are needed to conduct the archaeological work.

Curation

- Identify the facility that will curate the recovered cultural materials.
- Identify the accession number, if known, under which they will be curated and append the curation agreement or letter of commitment to report.

References Cited

- List all references cited in the proposal text.
- Bibliographic format should follow the most recent style guide for *American Antiquity*.

Maps

All maps should display the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should feature a north arrow and a graphic scale. The following maps should be attached to the report.

- *Study Vicinity Map*: Depict the location of the project on a county or district map.
- *Study Location Map*: Depict project location on portion of the appropriate USGS topographic map. Make sure to identify the topographic map by name, type (e.g., 7.5-minute), and date of latest revision.
- Attach a map that shows the site boundaries in relation to the Area of Potential Effects (APE) and Area of Direct Impact (ADI), as well as the portions of the site where Phase III excavations are proposed. Ideally, the map will indicate proposed locations of different types of excavation activities (e.g., shovel testing, control units, backhoe trenching or grading, etc.). The base for this map may be a topographic, planimetric map or an aerial photograph. Most importantly, however, the map must be at a scale that is sufficient (e.g., 1": 200', 1": 100',) to allow for clearly depicting the spatial relationship between the transportation project and the proposed test excavations.

- *Other Graphics:* Include additional photographs, engineering cross sections, as-builts or other materials to illustrate project area conditions and support the proposal.

Appendices

Updated site records.

- Information on specialized analyses to be performed.
- Resumés of key personnel.
- Budget listing all personnel, time, and costs (should be broken down into different activity types – i.e., field vs. lab vs. reporting – so that the cost of different phases of work can be clearly identified).
- Curation agreement or letter of commitment from curation facility.
- Other information as appropriate.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level or higher must peer review the draft Phase III Proposal following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level may review the final Phase III Proposal for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the Phase III Proposal signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the Phase III Proposal for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the Phase III Proposal by signing and dating the document. See [Chapter 5](#) Section 5.8.5 for more detailed information.

Exhibit 5.8:

Archaeological Data Recovery (Phase III) Report Format and Content Guide

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Exhibit 5.8:

Archaeological Data Recovery (Phase III) Report Format and Content Guide

Archaeological Data Recovery (Phase III) Report Format

An Archaeological Data Recovery Report, also referred to as a "Phase III Report," serves to communicate data recovery findings to a professional and public audience, rather than to secure an agreement on compliance measures between governmental agencies. Its format may be flexible to meet this goal. However, all of the Phase III work and its conclusions must be thoroughly documented, either in the body of the report or in appendices. Refer to [Chapter 5](#) Section 5.8 for a general discussion of archaeological data recovery studies. [Exhibit 2.16](#) contains Caltrans requirements for external distribution and publication of reports and public presentations.

Title Page

- In the title, identify the document as a Data Recovery Report, cite the primary number for the site(s), and identify the highway project by name.
- Below the title, identify the proposed highway project by District, county, route, post miles, and F-EIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level, and location of the report author(s) meeting the Caltrans PQS standards as identified in

ARCHAEOLOGICAL DATA RECOVERY (PHASE III) REPORT FORMAT

- Title page
- Summary of Findings
- Table of Contents
- Acknowledgements
- Introduction
- Site Context
- Research Design
- Field and Laboratory Methods
- Permits
- Native American Coordination
- Curation
- Study Results – Prehistoric Archaeological Sites
- Study Results – Historic-Period Archaeological Sites
- Summary and Conclusions
- References Cited
- Maps
- Tables and Other Figures
- Appendices

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

[Section 106 PA](#)² [Attachment 1](#), and for state-owned cultural resources [5024 MOU Attachment 1](#).³ The senior author is to sign the title page of the report.

- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. Approval of the report is documented by the EBC's signature on the title page.
- If a governmental permit was required, provide the name of the permitting agency and the permit number.
- Cite the USGS topographic quadrangle depicting the study area.
- List the township and range of the study area, but not the section.
- List the site's primary number, trinomial, and any other permanent designations.
- Provide the date (month and year) of completion of the report at the bottom of the page.

Summary of Findings

Summarize the purpose, scope, methods, and results of the study, and its research contributions. This summary generally should be no more than one to two pages in length.

Table of Contents

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

Acknowledgments

Provide information as appropriate.

Introduction

Concisely describe or discuss the

- Scope of the proposed transportation project
- Nature and purpose of the data recovery program
- Dates of fieldwork
- Names, titles, and qualifications of personnel participating in the study
- Nature of any permits or permission obtained

² 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid High-way Program in California.

³ 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.

- Other information, as necessary, to introduce the report

Site Context

- The discussion of site context should be limited to discussion necessary to make the report's findings understandable to its intended audience. The content of this section will vary considerably depending on whether prehistoric or historic-period archaeological resources are being addressed. For example, less discussion of the environmental context typically is required for historic-period sites, and little or no treatment of historical background is needed for prehistoric sites. Place the site in the regional context for which the research design was developed and within which the cultural remains are interpreted.
- Provide pertinent information on the present-day environment, paleoenvironment, ethnography, archaeology, and history.

Research Design

- State the core research design of the approved Phase III proposal or data recovery plan.
- If unexpected discoveries were made during fieldwork, the research design may be substantially revised; identify these changes and address as appropriate.

Field and Laboratory Methods

- Describe the methods and techniques used in the field and laboratory.
- If detailed discussions of analytical methods are contained in appendices, present the analytical methods here in a general fashion.

Permits

Discuss any permits that were needed to conduct the archaeological work.

Native American Coordination

- Describe the involvement of Native Americans.
- Describe the actions taken if human bone, associated grave artifacts, or items of cultural patrimony were found.

Curation

Identify the facility curating the recovered cultural materials and the accession number.

Study Results -- Prehistoric Archaeological Sites

For data recovery programs addressing multiple sites, each site usually is discussed in a separate chapter or section. Chapters may be alternatively organized, in part or en-

tirely, along topical lines (e.g., chronology, soils, features, etc.) if doing so aids in the clarity of presentation. Regardless of the organization of the report, however, the following information should be reported for each site:

A. Site Description

- Site type (e.g., midden, rock shelter, flake scatter, etc.)
- Site boundaries (horizontal and vertical), including the methods by which these were defined, as appropriate
- Characteristics of the immediate environment and paleoenvironmental characteristics, if known
- Ethnographic affiliation with documentary references, if possible
- Previous archaeological investigations at the site
- Chronological placement
- Site integrity and any known disturbances

B. Natural and Cultural Stratigraphy of the Site

- Describe the physical context of the cultural deposit(s) relative to topography and geomorphology
- Describe the soil type, color, structure, chemistry, stratigraphy, and the relationship to surrounding soils
- Briefly summarize the spatial patterning (horizontal and vertical) of cultural remains, and discuss this patterning in relation to landscape features and stratigraphy
- Summarize the results of any specialized chronological studies (i.e., obsidian hydration, radiocarbon dating) useful in interpreting site stratigraphy
- Discuss the integrity of the site deposits, including a description of observed disturbances to site deposits and the likely agents of change
- Provide profiles of representative or interpretively important excavation units
- Include data tables to support stratigraphic interpretations.

C. Features

- Identify and describe all features in terms of physical location, dimensions, attributes, and associations
- Summarize results of any specialized studies for each feature
- Provide functional interpretations if possible

D. Artifacts

- Provide a discussion of artifact typology for stone tools, beads, bone and ground stone tools, and historic materials
- Describe, enumerate, and discuss the distribution of:
 - Flaked stone
 - Ground stone
 - Shell artifacts
 - Bone artifacts
 - Historic materials
- Summarize results of special analyses included in appendices (e.g., obsidian sourcing and hydration, protein residue analysis, etc.)

E. Non-artifactual constituents

- Describe, quantify, and discuss the distribution of:
 - Plant macrofossils, carbonized floral remains, and pollen remains.
 - Faunal remains.

F. Human bone

- Describe the remains found, including physical condition, associations, and relationship between remains and stratigraphy
- Describe the discovery, handling, and disposition of human bone, making reference to relevant laws and agreements
- Identify individuals involved, including Native American Heritage Commission, local Native American representatives, Most Likely Descendant, County Coroner, landowners, and other interested parties
- Include photographs and illustrations only if such recordation and reporting is approved by the Most Likely Descendant and local Native American representatives

G. Site summary

- Summarize the sections above.

Study Results – Historic-Period Archaeological Sites

Information in the site reports must reflect its status as a historical archaeological site, as follows:

- Site type (e.g., homestead, mining camp, urban-commercial), including historical references
- Site boundaries (horizontal and vertical), including the methods by which these were defined
- Pertinent aspects of historical and archaeological background studies
- Environment
- Known disrupting influences/intrusions (e.g., roads, vandalism) that have changed the site's condition and/or affected its integrity
- Summary data gathered on the internal characteristics of the site (e.g., stratigraphy, artifact classes and their distribution, structural remains and activity areas, temporal affiliation[s])
- Previous archaeological investigations at the site
- Description and enumeration of artifacts by functional class and material type. The period of manufacture and use should be discussed, as well as any maker's marks or other attributes contributing to the identification of temporal affiliation

Summary and Conclusions

- Present investigation results as they relate to the specific research questions, hypotheses, or study goals presented in the research design. Follow the research design structure.
- Discuss results in terms of general research objectives.
- Place results in a regional context. Note contributions to understanding of regional prehistory or history.

References Cited

- List all references cited in the report.
- Bibliographic format should follow the most recent style guide for *American Antiquity*.

Maps

All maps should display the District, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number), and should include north arrows and graphic scales.

- *Study Vicinity Map*: Point to the vicinity of the study area on a county or District map.
- *Study Location Map*: Depict the site location on the appropriate USGS topographic map.
- *Study Site Map(s)*: These maps should be scaled to show detail, at least 1": 200'. An aerial photograph, detailed engineering/contour map, etc. may be used as a base map. For each site, show the site boundary, topography, modern features, location of cultural surface features and all study units (e.g., excavation units, surface scrapes, auger holes, etc.), and the pertinent portion of the project's Area of Potential Effects (APE) and Area of Direct Impact (ADI).

Tables and other figures

Incorporate tables and figures within the text as appropriate to document the work performed, its results, and its interpretation.

Tables should summarize:

- Units excavated (their size, depth and volume)
- Horizontal and vertical distributions of artifacts, ecofacts, and features
- Interpretively significant attributes of artifacts, ecofacts, and features
- Other information as appropriate

Information presented in the tables should not be repeated in the text, except as required for interpretive discussions.

Figures may include:

- Sidewall profiles
- Feature plans
- Graphs and charts
- Artifact drawings

Photographs may show:

- General overviews of the site and its relation to the highway
- Study techniques and/or field methods
- Site features
- Excavation sidewalls
- Artifacts

Appendices

- Specialized Analysis Reports
- Updated Site Record, as well as previous site records
- Other information as appropriate

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the draft Phase III Report following the guidelines in [Exhibit 2.13](#): Peer Review Guidelines for Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2.5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level may review the final Phase III Report for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the Phase III Report signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the Phase III Report for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the Phase III Report by signing and dating the document. See [Chapter 5](#) Section 5.8.8 for more detailed information.

Exhibit 5.9: Excavation Pre-field Checklist

The list below works in tandem with the discussion on pre-field preparations found in [Chapter 5](#) Section 5-6.6, is intended to identify common pre-excavation tasks, and to provide an approximate schedule of the order in which they should be accomplished. Most projects will not require all of these tasks, but some projects may require additional tasks. Also, the order of events may be substantially different than that shown below.

Action	Minimum Lead Time (weeks)
___ Obtain Assessor's parcel maps of the site vicinity.	12
___ Determine the ownership of the parcel(s) that site lies on.	12
___ Initiate the federal or state permit process, if the site is on public land.	12
___ If the site is in coastal zone, contact the Regional Office of the California Coastal Commission to obtain a permit, if necessary.	12
___ Obtain a right of entry permit for the excavation, if the site is on private land.	12
___ If wet screening, develop a strategy to ensure that sediments do not enter a live stream Identify the water source. Consult with a biologist, and request the biologist to coordinate the proposed work with the Department of Fish and Game area biologist, if necessary.	12
___ Obtain a biological review of site area to ensure that excavation will not affect rare or endangered species.	12
___ Request any necessary assistance from Surveys (e.g., datum placement, site mapping, staking)	10
___ Request a Native American Monitor.	8
___ Negotiate a monitoring agreement.	8
___ Arrange for curation of the materials recovered.	6
___ Prepare any necessary contracts for special studies (e.g. curation, obsidian hydration, obsidian sourcing).	6
___ Acquire encroachment permit from Caltrans for excavations within Caltrans right-of-way.	5
___ Obtain commitments for the field crew, including an individual qualified in first aid.	4
___ Field check the site for conditions which may require correction prior to field-work (e.g., vegetation, waterlogged site soils). More than one visit may be necessary.	4
___ Schedule the use of any necessary heavy equipment from Maintenance, or contract with a private operator.	4
___ Check the availability of lodging, and arrange for it if necessary.	4

Action	Minimum Lead Time (weeks)
— Arrange for evening/weekend guards at the site, if necessary.	3
— Coordinate with the District Public Information Officer. If requested, prepare a press statement.	3
— Arrange for backfill material, should wet screening result in insufficient material to fill units.	3
— Check the condition of field equipment. Repair, replace, or obtain what is needed. Organize forms, materials, and supplies.	2
— Determine the need for any particular safety measures. Confer with the District Safety Officer, if necessary.	2
— Prepare a study fact sheet for field crew discussing the study schedule, logistics, and work expectations.	2
— Arrange for vehicles, including one with a radio, if available.	2
— Arrange for any necessary toilet facilities.	2
— Arrange Underground Service Alert (“USA”, or “DigAlert”) a few days prior to excavation to locate any existing utilities in excavation area.	1
— Obtain “men working” signs and orange cones if working near road.	1
— Obtain safety covers for all open units and safety covers or effective barriers for all open trenches.	1
— Arrange for shoring material to be available if needed.	1
— Identify a secure location for equipment storage.	1
— Arrange lodging for the crew, if necessary.	1
— Arrange a report-in schedule with your Supervisor.	1

Exhibit 5.10: Geophysical Guidance for Archaeological Resources

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Exhibit 5.10: Geophysical Guidance for Archaeological Resources

Introduction

Non-invasive geophysical investigations map anomalous readings that represent changes in subsurface soil conditions. This exhibit presents Caltrans' guidance for determining when such investigations are warranted. Through proper analyses, testing anomalous readings may help identify classes of data related to cultural deposits, such as middens, storage pits, foundations, etc. When used in conjunction with other tools available to Caltrans staff archaeologists and/or consultants, non-invasive geophysical applications have shown potential in meeting environmental compliance obligations to avoid, minimize or mitigate the effects of transportation projects on archaeological resources.

This guidance focuses on the three components necessary for implementing a successful geophysical study:

1. Obtaining an understanding of the literature, types of equipment, and methods for survey and data processing/interpretation
2. Gathering the information needed to assess the appropriateness of a given geophysical approach
3. Identifying the fundamental components of a geophysical survey in order to develop a scope of work that will help meet project goals

The guidance is divided into two main sections:

- The [General Guidance](#) discusses the justification for using geophysical technology, pre-field specifications, and report requirements.
- The [Practitioners Guide](#) introduces the online tutorial that guides the reader (beginner or advanced) through the proper steps to determine whether a geophysical survey will help, and the information that is needed for specialists to conduct a geophysical survey. California State University, Long Beach designed the tutorial for Caltrans "as an online self-study resource for the collection, processing and analysis of archaeogeophysical data,"¹ and is based on a

¹ [Archaeogeophysics website](#)

compilation of Caltrans geophysical research. The tutorial covers the fundamentals of geophysical survey and sampling methods, as well as advanced statistical analyses using multiple types of data within a Geographic Information System (GIS) environment.

Each of the technologies listed in the following pages have been identified as a means of mapping potential subsurface cultural components. Examples of projects using these technologies from around the United States can be found at [NADAG²](#).

Geophysical technologies available to Caltrans staff include Ground Penetrating Radar (GPR), Magnetometer/Gradiometer (CVM/CVG), Resistivity, Conductivity, and Light Detection and Ranging (LIDAR) – although not a geophysical technology, LIDAR is showing great promise in sensing and mapping minute detail. Other types of non-invasive equipment that Caltrans does not currently own also may help with subsurface mapping; most notably seismic refraction and portable X-ray Fluorescence (XRF) instruments. Though not discussed within this guidance or the associated Tutorial, Alan J. Witten's *Handbook of Geophysics and Archaeology* from 2006 contains a discussion on how seismic refraction functions.

Geophysical investigation is a growing and advancing field; therefore this guidance cannot cover all possible applications. However, information in the following pages may be applied to most situations, technologies and software.

General Guidance

When incorporating the use of geophysical or any other technical equipment (LIDAR, thermal imaging, etc.) into a survey, Caltrans archaeologists need to be familiar with available technologies to determine how and when to incorporate their use. Part of this familiarity is in knowing what information is required to make an educated decision, such as having a basic knowledge of the technology, how to interpret the data, and, importantly, how to integrate their use into a typical phased compliance investigation (i.e. survey, testing, and mitigation).

The pre-field geophysical survey requirements must be discussed in detail so that the method(s) appropriate to the geology, soil, land cover and expected archaeology can be justified. Because there is a wide array of site types and geology, non-invasive data gathering may not be suitable in all situations.

² North American Database of Archaeological Geophysics

This guidance will help Caltrans staff archaeologists:

- Determine whether a geophysical survey is warranted.
- Determine which methods and technologies are appropriate.
- Show how to effectively incorporate the use of appropriate geophysical methods and technologies.

Choosing the Appropriate Technology

Choosing which instrument to use has as much to do with the feature type anticipated as with geology and soil. Table 1 below lists the types of equipment that are useful in locating various archaeological deposits/features. Only the most commonly used survey methods are listed. *This is only a rough guide, to which there will be exceptions, depending upon individual site circumstances and future technical developments.* As Table 1 demonstrates, each type of equipment is suitable for a range of feature types. For instance, GPR identifies many of the same features as magnetometers. This is one reason Caltrans has invested in these two technologies. Results are most reliable when verified by more than one technology.

Table 1 is adapted from the English Heritage [Geophysical Survey in Archaeological Field Evaluation](#).

TABLE 1 MATCHING SURVEY METHOD TO FEATURE TYPE*:				
Feature Type	Magnetometry Equipment	Resistivity Equipment	GPR Equipment	Conductivity Equipment
middens	Y	N	N	?
activity areas	y	Y	n	?
large pits (>2m diameter)	Y	y	Y	?
small pits (<2m diameter)	Y	?	Y	?
post holes	y	n	y	N
hearths	Y	N	y	n
kilns/furnaces	Y	N	y	?
building footings	y	y	Y	?
paleochannels	y	y	Y	y
roads/tracks	y	y	y	?
masonry foundations/piers	?	Y	Y	Y
brick foundation/piers	y	Y	Y	?
house floors	y	Y	Y	?
graves	?	y	y	N
cremations	n	N	N	N
Key:				
Y The technique responds well in many conditions and is usually to be recommended.				
y The technique can respond effectively in many conditions but is best used in conjunction with other techniques.				
? The technique may work well in some conditions, and its use may therefore be questionable; another technique might be preferable.				
n The technique may work in some conditions, but is not usually recommended; another technique is usually preferable.				
N The technique is probably not effective, or its effectiveness is uncertain.				
*adapted from English Heritage 2008 Guidelines.				

Survey Guidelines

The following summarize the main components necessary to complete a successful geophysical survey as outlined in the online [Tutorial](#).

Scoping/Fieldwork

For a geophysical survey to be successful, an understanding of the physical setting is necessary. *This analysis should be conducted prior to any fieldwork* and should include at a minimum:

- Geology of the area, both hard rock and soil formation.
- Identification of above and below ground utilities.

- Some basic information about the regional archaeology.

Knowledge of these three areas will help to identify geophysical expectations for site boundary, feature types, and intra-site patterning. Any planning for geophysical survey needs to be accomplished in close coordination with the principal project archaeologist to ensure integration with the project's goals and research design.

Geophysical fieldwork should be undertaken under the concept of repeatability so that independent verification of findings reasonably could be reached by any geophysical specialist. The online Tutorial explains how to accomplish this goal by discussing standard sampling techniques.

It is highly recommended that data collection be conducted using multiple technologies because different equipment measures different physical properties of the same types of features.

Data Treatment

In-field processing of raw data should be conducted to ensure data fidelity. If corrupt data are found, the area should be re-surveyed. All phases of exploratory data analysis (EDA) should be documented and included in the final report. Data outliers should be removed during EDA; any outliers that cannot be removed should be identified, explained in the notes, and clearly depicted in any images included in the report. EDA varies from instrument to instrument and should follow standard guidelines for the equipment and the software used. Complete records of the EDA process should be kept and included in the Geophysical Survey Report appendix.

Data Interpretation

Whenever possible, include in the data interpretation input from all specialists working on-site. At minimum, archaeological, geophysical and geomorphological specialists will add insights that otherwise might be overlooked. In the report, clearly state the distinctions between scientifically based interpretations versus anecdotal observations. Explain negative data (the absence of anomalous readings) and include a clear statement about what negative data do and do not mean (e.g., negative data may not imply an absence of archaeological components/features at the site). In the event of negative data, appropriate alternative methods should be used to determine whether subsurface archaeological deposits are present. This could include the use of some other form of geophysical technology, hand or mechanical excavation, or combination thereof.

Data Archiving

Data archiving is an integral part of geophysical data collection. The results from a typical geophysical survey using GPR and magnetometers can produce gigabytes of data. This would include raw data files, converted data files from third party software, raster and vector data, GPS, and tabular/spatial data from GIS sources. All spatial data and images should be linked to the Caltrans Cultural Resource Database (CCRD). This could be accomplished through creating and linking a zipped file to the CCRD.

Competence of Survey Personnel

All geophysical work must be performed under the responsible charge of a Professional Geophysicist who is registered in the state of California pursuant to the [Geologist and Geophysicist Act](#), California Business and Professions Code, Chapter 12.5 [section 7800 et seq.](#) Qualifications for registration are found in [section 7841.1](#) and are available on-line at (<http://www.bpelsg.ca.gov/applicants/>).

All geophysical work conducted in-house will be performed under the responsible charge of a registered geophysicist from the Chief of the [Geophysics and Geology Branch](#) in the [Division of Engineering Services](#), [Geotechnical Services](#), [Office of Geotechnical Support](#). Once Caltrans has updated the requirements, this exhibit will be revised accordingly.

Geophysical Survey Report Guidelines

The Geophysical Survey Report (GSR) is a clear and concise discussion of every stage of the geophysical survey, supported by figures and tables that are understandable to the specialist and non-specialist alike. Format is similar to an Archaeological Survey Report (ASR), see [Exhibit 5.1](#), but with the focus on the geophysical data. At minimum, the GSR should contain the following sections:

- Background information on the geology and soils (including moisture, pH, etc).
- Background information on the archaeology (e.g., what types of features are likely in the region).

GSR FORMAT

- Title page
- Table of Contents
- Summary of Findings
- Introduction
- Background information on the geology and soils
- Background on the archaeology
- Methods used during survey and EDA
- Discussion of the survey results
- Interpretation of what the results mean for overall project
- How the results can be used in ensuing phases
- Appendix
- Maps and other Figures

Don't forget the transmittal memo!

- Discussion of the methods used during the survey and EDA
- Detailed discussion of the survey results that clearly point to what was found
- Interpretation and detailed discussion of what the results mean in reference to the overall project.
- Clearly stated reference as to how the geophysical results can be used in ensuing phases. This might include mitigation measures requiring additional geophysical survey or potential excavation sampling strategies.
- Appendix that includes detailed technical information with all raw data files, field notes, and images created during processing (burned onto a CD and attached to the final report).

Caltrans PQS certified at the Principal Investigator level (Prehistoric Archaeology or Historical Archaeology, as appropriate) must peer review the all geophysical documentation, including GSRs, as outlined below in [Peer Review and Approval](#).

Practitioners' Guide

The California State University, Long Beach developed the online geophysical website with Caltrans providing the funds and staff oversight. It is designed to lead all levels of practitioners from the beginning “How To” steps through advanced statistical analyses in a GIS environment using multiple sources of data. Because it was designed in a *wiki* environment, it is a user-updated program. Experienced users can add their own projects and beginners can upload data, send and ask the experts questions about the data. As new technologies are developed and tested, these can be added to the website, located at:

http://mendel.cla.csulb.edu/archaeogeophysics/index.php/Main_Page. Follow the registration and login tools to create a user name and password.

The website is divided into the sections described below.

Equipment

Though the principles behind the geophysical instrumentation remain the same, the [equipment](#) models and configurations may vary, which can present additional considerations in survey design. GPR, magnetometry, resistivity, and conductivity are each explained.

Techniques

Each [technique](#) has strengths and constraints that make it more or less effective in detecting sub-surface features, depending on the conditions of the environment

associated with the archaeological investigation. The purpose of this section is to explain exactly what each technique measures, the strengths and weaknesses of each technique, and the conditions which allow the technique to be most useful.

Datasets

The [dataset](#) portion of the website is where real data will be placed. This section allows users to practice data processing with previously recorded geophysical data.

Tutorial

The [tutorial](#) page provides step-by-step operating instructions for geophysical instruments as well as how to process data generated in the field. Each page generally focuses on individual tasks.

Analysis and Integration

Among of the most powerful and dynamic [analysis and integration](#) tools for interpreting processed geophysical data are GIS programs such as ArcGIS. Geophysical data may be integrated into GIS by directly importing processed data as layered image files or interpolating raw data within ArcGIS itself. These layers then may be compared using statistical processes by using Spatial Analysts for ArcGIS users.

Software

The [software](#) section is under construction because Caltrans is trying to find a means of adding software capabilities that do not conflict with software user licenses. However, step-by-step instructions are included for each software package used/recommended for each piece of equipment.

References

The [reference](#) section is divided into four subsections. The general geophysics bibliography contains references for different types of geophysical equipment. The [magnetometry bibliography](#) contains references specifically for magnetometry surveys, while the [GIS bibliography](#) focuses on sources regarding the use of GIS in archaeology. The [remote sensing](#) bibliography contains references for photogrammetry and satellite imagery in archaeology.

Glossary

A [glossary](#) is provided to help the beginner understand terminology used throughout the tutorial.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level must peer review the all geophysical documentation, including the draft GSR, following the guidelines in [Exhibit 2.13](#): Guidelines for Peer Review of Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2 Section 2.5.5](#) and [Exhibit 2.11 Table C](#) contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level reviews GSRs for approval, which the EBC approves. The Caltrans PQS or consultant who prepares the GSR signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the GSR for approval likewise signs, dates, and includes his/her PQS discipline, level and District or HQ affiliation. Finally, the EBC approves the GSR by signing and dating the document. See [Chapter 5 Section 5.6.9](#) for more detailed information.

GSRs may be provided as a stand-alone document, as a chapter of a larger report such as an ASR, or as an appendix. This should be discussed prior to the field investigation as the required information may vary. All other Caltrans guidance on report dissemination should be followed.

Recommended Readings

The following references are provided to enhance the reader's understanding of the principles on which the geophysical instrumentation works, and directs the reader to guidance from other agencies and sources and databases containing geophysical reports from around North America.

ADS Guidance. Geophysical Data in Archaeology: A Guide to Good Practice:

<http://guides.archaeologydataservice.ac.uk/>

Application of Geophysical Methods to Highway Related Problems:

<http://www.cflhd.gov/resources/geotechnical/>

Avery, Thomas Eugene and Graydon Lennis Berlin

1992 *Fundamentals of Remote Sensing and Airphoto Interpretation*, 5th edition, Prentice Hall, New Jersey.

Bevan, Bruce W.

1998 *Geophysical Exploration for Archaeology: An Introduction to Geophysical Exploration*, Midwest Archaeological Center, Special Report No. 1.

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Journal: Archaeological Prospection:

<http://www3.interscience.wiley.com/journal/15126/home>

NERC Geophysical Equipment Facility: <http://gef.nerc.ac.uk/>

North American Database of Archaeological Geophysics (with extensive links):

<http://www.cast.uark.edu/nadag/>

National Park Service

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Exhibit 5.11: Post-Review Discovery and Monitoring Plan Format and Content Guide

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Exhibit 5.11: Post-Review Discovery and Monitoring Plan Format and Content Guide

Introduction

A Discovery Plan is prepared if the potential for discovery of cultural resources during construction is *likely*. It serves to outline the process that Caltrans or the consultant will implement in order to resolve adverse effects to resources which may be encountered during construction activities.

Plans for post-review discoveries are prepared pursuant to Section 106 Programmatic Agreement¹ (Section 106 PA) [Stipulation XV.A](#) (for state-owned cultural resources pursuant to Public Resources Code [PRC] [5024 MOU Stipulation XIV.A](#)²), or in conjunction with a Memorandum of Agreement (MOA)³ or No Adverse Effect (without Standard Conditions) finding that has concurrence by the State Historic Preservation Officer (SHPO), or prepared pursuant to 36 CFR Part 800.13 (Post-review Discoveries) for federal undertakings when the Section 106 PA does not apply.

Important Tips

- Discovery Plans are not intended for situations where previously unrecorded archaeological resources are *possible*; they are intended for use when such resources are *likely*.
- Discovery Plans are not a substitute for adequate identification efforts.
- Discovery Plans are only intended for Phased identification when an agreement document, such as an MOA, is in place

Like a Data Recovery Plan (DRP), a discovery plan is intended to describe methods that will be employed to resolve potential adverse effects to archaeological properties. The Discovery Plan typically also includes protocols for archaeological monitoring.

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California

² 2015 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.

³ For adverse effects to state-owned historical archaeological resources that are not on the Master List of Historical Resources (Master List), use a Finding of Adverse Effect with Standard Mitigation Measures. For adverse effects to state-owned archaeological historical resources that are on the Master List, use a Finding of Adverse Effect (FAE) and include the mitigation measures and in the HRCR. See [Chapter 2](#) Section [2.7](#), [2.8](#) and [2.9](#) for additional information.

Discovery plans are generally prepared under the following circumstances:

1. Caltrans finds that historic properties are *likely* to be discovered after construction is underway, and Caltrans has been unable to complete a thorough identification effort. In this case, Caltrans should enter into an agreement document with the SHPO to phase identification, evaluation, and assessment of effects. The Discovery Plan would function as, or be a component of, a treatment plan included in the agreement document.
2. Historic properties are discovered within the Area of Potential Effects (APE) during identification efforts and Caltrans finds that *additional historic properties are likely to be discovered* during construction. In this case the SHPO will review a Discovery Plan as part of an MOA or Finding of No Adverse Effect (without Standard Conditions).

If a good faith effort to identify historic properties reveals no National Register eligible properties in the APE (or no properties are present at all), and Caltrans finds that historic properties are *not likely* to be discovered after construction is underway, the appropriate finding for the project is No Historic Properties Affected. Caltrans may opt to prepare a plan for post-review discoveries to keep on file, but it is not reviewed by the SHPO and is not a formal Discovery Plan pursuant to [36 CFR 800.13\(a\)](#) or [Section 106 PA Stipulation XV.A](#).⁴ It may be used to facilitate consultation under [36CFR 800.13\(b\)](#) or [Section 106 PA Stipulation XV.B](#),⁵ Discoveries Without Prior Planning. [Chapter 5](#) Section 5-10 contains additional guidance.

Post-Review and Monitoring Plan Format

The format of the Discovery Plan is very similar to that of the Data Recovery Plan (DRP) because both plans prescribe methods for resolving adverse effects.

However, a Discovery Plan must include protocols for working within the construction environment, such as monitoring schedules, lines of communication for discoveries, methods to evaluate finds and reporting and notifications. Discovery Plans, as their title implies, should contain a process by which resources may be identified (such as monitoring protocols) and also must provide a rationale for the expectation that resources are likely to be identified during project implementation.

⁴ For state-owned cultural resources it is pursuant to [5024 MOU Stipulation XIV.A](#).

⁵ For state-owned cultural resources it is pursuant to [5024 MOU Stipulation XIV.B](#).

DRPs prescribe methods to resolve adverse effects to known resources, which typically were subject to previous study or were previously recorded and described by a professional archaeologist. This usually enables the DRP to have more refined methods specifically developed for a particular site or site type. Discovery Plans, however, need to consider a wider range of potential outcomes based on less information. Therefore, Discovery Plans tend to provide methods that could be utilized to resolve adverse effects under a wider range of variables, including potential for a range of site types, material conditions, or temporal components

Title Page

- In the title, identify the document as a Discovery Plan, and identify the highway project by name.
- Below the title, identify the highway project by District, county, route, post miles, and E-FIS⁶ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").
- Provide the name, title, Professionally Qualified Staff (PQS) level, and location of the plan author(s) meeting the Caltrans PQS standards as identified in [Section 106 PA Attachment 1](#), and for state-owned cultural resources [5024 MOU Attachment 1](#). The senior author is to sign the title page of the plan.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the plan was prepared. Approval of the plan is documented by the EBC's signature on the title page.
- Provide the date (month and year) of completion of the report at the bottom of the page.

POST-REVIEW DISCOVERY AND MONITORING PLAN FORMAT

- Title page
- Table of Contents
- Introduction
- Project Description
- Archaeological Sensitivity
- Archaeological Context
- Methods
- Monitoring
- Results and Conclusions
- Consulting Parties
- References Cited
- Attachments

Table of Contents

List the major proposal sections, subheadings, appendices, tables, and figures, with page numbers.

⁶ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

Introduction

Concisely describe or discuss the

- Proposed highway project or Local Assistance project
- Nature of the archaeological sensitivity
- Purpose for a discovery and or monitoring plan
- Other information as necessary to introduce the report

Project Description

Include in this section, as applicable, a discussion of the nature and scope of the project:

- General scope of the proposed work, specifying relevant project components that may impact anticipated archaeological resources (e.g., roadway grading, utility and drainage excavations, soundwall trenching, borrow area, etc.)
- Nature and purpose of the plan relative to federal or state regulations (e.g., Section 106 PA Stipulation XV.A or 5024 MOU Stipulation XIV.A for state-owned cultural resources, the Project MOA etc.)
- Citation of all pertinent maps or figures (Project Location, historic property/cultural resource boundaries, Project Area limits, construction plans, etc.)

Archaeological Sensitivity and Rationale for Discovery Plan

Discuss previous archaeological studies as they pertain to the Project Area.

Depending on the sensitivity and scope of the project, this section may be brief or extensive. The plan should bring together the information regarding potential project impacts and archaeological sensitivity to focus any monitoring efforts.

Archaeological Context and Research Design

This section should include as appropriate:

- Archaeological Context
- Historical Context
- Ethnographic Background
- Environmental Context
- Geoarchaeological Studies
- Expected Resource Types
- Expected Feature Types
- Research Themes and Questions
- Thresholds for determining eligibility of any finds

Methods

Clearly state or explain what methods will be employed for evaluating or performing data recovery on any resource that may be discovered during the implementation of an undertaking. The plan needs to be specific enough to document that an appropriate level of field work will be conducted in response to a discovery, but at the same time the plan needs to be flexible enough to be applicable to varying conditions that arise in the field.

Monitoring

The purpose and need for monitoring should be clearly stated. Specifics about monitoring procedures (e.g., methods, what activities will be monitored) also should be included. This may be general for small projects, or extensive and detailed for more complex projects.

If Native American monitoring is to be included, the parameters of their participation, as agreed through consultation (e.g., who will monitor, location of monitoring, length of time), should be clearly defined. In addition, any planned environmental sensitivity training (such as for construction personnel) should be described.

The following monitoring specifics should be discussed as necessary:

- Procedures for Discoveries during Construction
- Chain of Command and Responsible Parties with contact information should be provided
- Special Procedures for Human Remains
- Laboratory Analysis and Curation
- Format and Content of Monitoring Report, including timeframes and responsibilities or
- Format and Content of Comprehensive Technical Report

Consulting Parties

If applicable, summarize coordination efforts and consulting parties comments received to date.

References Cited

- List all references cited in the proposal text.
- Bibliographic format should follow the most recent style guide for *American Antiquity*.

Attachments

Include, only as appropriate, the following:

- Project Area map: The Project Area map should illustrate the proposed project, upon which the Project Area limits have been delineated. The Project Area map needs to be of sufficient scale and have enough project detail to demonstrate the relationship of historic properties to the proposed project.
- Engineering plans
- DPR 523 forms (if appropriate)
- Profiles and cross-sections that show the actual limits of project impacts in relation to the expected cultural resource
- Photographs or other useful graphics
- Copies of correspondence

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level in Pre-historic Archaeology and/or Historical Archaeology, as appropriate, must peer review the draft Discovery Plan following the guidelines in [Exhibit 2.13](#): Guidelines for Peer Review of Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2-5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level may review the final Discovery Plan for approval, which the EBC approves. The Caltrans PQS, or consultant, who prepares the plan signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the plan for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the Discovery Plan by signing and dating the document.

Exhibit 5.12: Post-Review Discovery – Without Plan Format and Content Guide

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Exhibit 5.12:

Post-Review Discovery – Without Plan Format and Content Guide

Introduction

It is possible to conduct a reasonable and good faith effort to identify historic properties during the planning phase of a project and still encounter previously unrecorded archaeological resources during the project's implementation. If a plan for subsequent discovery is not in place and an undertaking affects a previously unidentified property or affects a known historic property in an unanticipated manner, Caltrans shall promptly stop construction activity in the vicinity of the property and implement all reasonable measures to avoid, minimize, or mitigate further harm to the property. The regulatory context for post review archaeological discoveries is found at in the Section 106 Programmatic Agreement¹ ([Section 106 PA](#)) and [36 CFR 800.13\(b\)](#), and for state-owned cultural resources the Public Resources Code (PRC) 5024 Memorandum of Understanding² ([5024 MOU](#)), PRC 5024(f) and PRC 5024.5. The following information is provided to assist with unplanned archaeological discoveries that occur during the implementation of an undertaking.

Post Review Archaeological Discovery Actions

If buried cultural materials are encountered during construction, it is Caltrans policy that work stop in that area until a qualified archaeologist can evaluate the nature and significance of the find.

If there is a Memorandum of Agreement (MOA) or other type of agreement document in place for the project, follow protocols stipulated in the document.

¹ 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid High-way Program in California

² 2015 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.

In accordance with Section 106 PA [Stipulation XV.B.](#) and for state-owned finds 5024 MOU [Stipulation XIV.B.](#), the finds may be assumed to be eligible for inclusion in the National Register and for state-owned cultural resources assumed eligible for registration as a California Historical Landmark. Subsequent consultations, treatments and reporting are intended to resolve adverse effects.

Initial Response and Notifications

When previously unknown cultural resources are identified or unplanned effects occur during the implementation of a project, the main goal is to take action that will avoid or minimize further harm to the resources and to ensure that the appropriate parties are notified of the discovery. This requires careful coordination with construction personnel and Caltrans staff. The following sequence is intended as guidance; however, it does not replace good judgment in the field, which may be necessary to appropriately respond to a particular situation:

1. Construction personnel, or the person making the discovery, *immediately stops work in the vicinity of the find* and coordinates with the Resident Engineer to ensure the find is protected from further harm
2. A qualified archaeologist immediately conducts a field inspection to determine the nature of the find
3. Upon determination that the find is archaeological in nature, the archaeologist notifies the following parties, as follows:

Immediately notify:

- Caltrans District Environmental Branch Chief (EBC)
 - District Native American Coordinator (DNAC) as appropriate
 - County coroner when human remains (or remains reasonably suspected of being human) are encountered
4. Within 48 hours the EBC then will notify, as appropriate:
 - Caltrans Cultural Studies Office (CSO)³
 - State Historic Preservation Officer (SHPO)
 - Property owner (if other than Caltrans)
 - Indian tribes (or Native American groups that may attach religious or cultural significance to the affected property)

³ FHWA delegated its Section 106 responsibilities to Caltrans Division of Environmental Analysis CSO. See the [NEPA Delegation Addenda](#) to the Section 106 PA.

- Secretary of the Interior and the Advisory Council on Historic Preservation when unplanned effects involve a National Historic Landmark. See the Section 106 PA [Stipulation XV.B.3](#).
- Other consulting parties

The Caltrans District EBC may delegate notification responsibility to the Caltrans project archaeologist, District Heritage Resources Coordinator (HRC), or DNAC as appropriate.

The notification must include a description of the nature and location of the find and actions that are being taken to protect the find.

These parties have 72 hours to respond to the notification. Responses from any of the parties above within the initial 72-hour period may include recommendations for further action and treatment or requests for more information, such as maps, photos, more detailed descriptions of the find, and requests for field visits or inspections by additional parties.

Note that when making initial contact (within 48 hours of the find) every effort should be made to insure a personal contact is made. For example, do not rely solely on a fax or single e-mail message. Follow up faxes or emails up with phone calls or additional e-mails to ensure the notification was received.

If human remains (or remains reasonably suspected of being human) are encountered, Health and Safety Code 7050.5 *requires that construction or excavation be stopped in the vicinity of the discovery and the county coroner be notified*. The coroner will determine if the remains are Native American. In compliance with Public Resources Code 5097, if the remains are determined to be Native American, the coroner notifies the Native American Heritage Commission (NAHC). The NAHC then must notify the person designated by them to be the Most Likely Descendent (MLD). The Caltrans DNAC also directly notifies the NAHC and contacts the designated MLD in order to ensure that lines of communication are quickly established.

Subsequent Actions and Reporting

To minimize construction delays and facilitate appropriate consultation regarding treatment of the affected resource, it is critical to follow-up on any requests for additional information, maintain communication with appropriate parties, and check in with progress updates and documentation as work is completed.

Initial documentation should be completed, including maps, photos, GPS data, and field drawings, as appropriate. This documentation may be required before the other consulting parties can be expected to provide informed comment.

Subsequent actions such as protective measures and data recovery efforts must be developed in consideration of the comments of parties identified above.

Note that while considerable time may pass before reports of work undertaken may be available, it is critical to maintain communication with consulting parties and follow through on commitments.

Required Reporting

Federal Undertakings

- Complete a Department of Parks and Recreation (DPR form 523) form(s) ([Caltrans DPR form templates](#) are available online) and submit the form(s) to the appropriate regional [Information Center](#) to obtain a Primary Number. The DPR 523 form(s) may need to be included with any information that is sent to consulting parties immediately following the initial notification, in order to obtain meaningful comments and input towards resolution of effects.
- Complete any agreed-upon reports that are part of the consultation to resolve adverse effects. Typically this will include a Phase III Report (see [Exhibit 5.8](#)) if data recovery is required.
- Provide a Report of Construction Impacts to the Headquarters Division of Construction and to the CSO Chief, as outlined in [Exhibit 5.13](#).
- Coordinate with the CSO Section 106 Branch Chief to include information on the post review discovery and actions taken in the Section 106 PA and 5024 MOU Annual Reports.

CEQA

When there is a post-review discovery on a state-only project, follow the guidance outlined above, but the SHPO, FHWA, ACHP and Secretary of the Interior (for National Historic Landmarks) do not need to be notified. Use the Historical Resources Compliance Report (HRCR) to document the steps taken under the [Reporting Required](#) section above. [Chapter 2](#) Section 2-8.1 Late Discoveries also contains information.

PRC 5024 Memorandum of Understanding

When there is a post-review discovery that involves a state-owned resource, follow the guidance outlined above, but FHWA, ACHP and Secretary of the Interior (for National Historic Landmarks) do not need to be notified. If the post-review discovery involves an unrecorded archaeological site, and Caltrans Professionally Qualified Staff (PQS) determine that the site meets National Register or California Historical Landmark (CHL) criteria, SHPO must be notified pursuant to 5024 MOU [Stipulation XIV.B](#). Use the Historical Resources Compliance Report (HRCR) to document the steps taken under the [Reporting Required](#) section above.

Peer Review and Approval

As with all actions carried out under the Section 106 PA, the 5024 MOU and other state-only projects, including responses and reporting of actions taken in regard to post review discoveries, all work is carried out by or under the direct supervision of a person or persons who meet the Secretary of the Interior's Professional Qualifications Standards as set forth in Attachment 1 of both the [Section 106 PA](#) and [5024 MOU](#). Caltrans PQS certified at the Principal Investigator level in Pre-historic Archaeology and/or Historical Archaeology, as appropriate, peer review the Post Review Discovery documentation following the guidelines in [Exhibit 2.13](#): Guidelines for Peer Review of Cultural Resources Reports. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2-5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Exhibit 5.13: Construction Impacts to Cultural Resources Report Format and Content Guide

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Exhibit 5.13: Construction Impacts to Cultural Resources Report Format and Content Guide

Refer to [Chapter 2](#) Section 2-4.3 and [Chapter 5](#) Section 5-7 for a general discussion on the use of Environmentally Sensitive Areas (ESAs), the consequences of enforcement failures, and required notifications. [Exhibit 2.7](#) on ESA Action Plans contains guidelines.

General Report Format

This guide provides an outline of the basic format and information requirements Caltrans uses for reporting any unplanned impacts to a cultural resource during construction. The Construction Impacts to Cultural Resources Report explains what happened and how, and outlines the measures Caltrans intends to establish to reduce or eliminate additional project impacts and to prevent similar incidences on future projects. The Caltrans Professionally Qualified Staff (PQS) in the District Environmental Branch prepares the report and the District Environmental Branch Chief (EBC) certifies it by signing it. The DEBC sends copies of this report to Headquarters Division of Construction and to the Caltrans Division of Environmental Analysis, Cultural Studies Office (CSO) Chief.

CONSTRUCTION IMPACTS TO CULTURAL RESOURCES REPORT

- Title page
- Introduction
- Legal Status
- Resource Description
- Status of Environmental Commitments
- New Mitigation Measures
- Exhibits

Don't forget the transmittal memo!

Title Page

The title page identifies the Caltrans project by:

- In the title, identify the document as a Construction Impacts to Cultural Resources Report, and identify the highway project by name.
- Below the title, identify the highway project by District, county, route, post miles, and E-FIS¹ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").

¹ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- Provide the name, title, Professionally Qualified Staff (PQS) level, and location of the report author(s) meeting the Caltrans PQS standards as identified in [Section 106 PA](#)² [Attachment 1](#), and for state-owned cultural resources [5024 MOU Attachment 1](#).³ The senior author is to sign the title page of the report.
- Provide the name, title, and location of the District Environmental Branch Chief (EBC) for whom the report was prepared. Approval of the report is documented by the EBC's signature on the title page.
- Month and year Report was prepared (appears at bottom of page)

Introduction

- State the district, county, route, postmile and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number). Refer to and attach a project location map.
- Note the date the impacts were identified and further work in that area was halted. If the identification and work-halted dates are different, explain the reason why.
- Provide the Resident Engineer's or other responsible District contact's name, office address, telephone number, and if applicable, e-mail address.
- Provide the name, address, telephone number and affiliation of the individual who reported the incident (if different from the Resident Engineer or other responsible District contact).
- Note which agencies Caltrans contacted (e.g. FHWA, SHPO, USFS) and the information they were provided.

Legal Status

Identify the National Register of Historic Places⁴ and CEQA historical resource status of the impacted historical resource, including the relevant eligibility criteria, period and level of significance, and/or other legal protections (e.g. NEPA/CEQA, Archaeological Resources Protection Act, California Public Resources Code for state-owned resources, etc.)

² 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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California.

³ 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.

⁴ And for state-owned historical resources, the California Historical Landmarks status if applicable, and whether the state-owned resource is on the Master List of Historical Resources. See [Chapter 2 Section 2.8](#).

Description of the Cultural Resource

Prior to the construction impact:

- Describe the cultural resource and its pre-impact condition. Describe the resource's location, areal extent or boundaries, its association with other properties, if appropriate, and its appearance.
- Discuss the cultural resource's known or potential significance.
- Reference and append appropriate maps and photographs to illustrate (See [Exhibits](#) section below)

After the construction impact:

- Describe the impact to the cultural resource and how much of the resource was damaged.
- Describe the cultural resource's altered condition.
- Discuss any potential changes in the resource's significance.
- Discuss the significance of the impacts, including the potential for jeopardizing current agreements with other agencies.

Status of Environmental Commitments

- Discuss the protective measures identified in the Environmental Document (ED), Historic Property Survey Report (HPSR), Historical Resources Compliance Report (HRCR), Finding of Effect (FOE), Memorandum of Agreement (MOA), Plans Specifications and Estimates (PS&E), etc.
- Discuss the reasons why the measures failed or were not implemented. Note any measures that worked.
- Discuss preventive measures that will be implemented on future projects to prevent this type of incident from occurring again.

New Mitigation Measures

Now that impacts of this project on the cultural resource are identified, discuss:

- What measures are being taken to reduce or eliminate additional problems
- What measures are being taken to reduce or correct present impacts

Exhibits

- Show cultural resource and impact area on the best available maps.
- Provide photographs of impacts, if available.

Peer Review and Approval

Caltrans PQS certified at the Principal Investigator level and/or Principal Architectural Historian level, as appropriate, must peer review the draft Construction Impacts to Cultural Resources Report following the guidelines in [Exhibit 2.13: Guidelines for Peer Review of Cultural Resources Reports](#). Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2-5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS at the Principal Investigator level and/or Principal Architectural Historian level may review the final Report for approval, which the EBC approves. The Caltrans PQS, or consultant, who prepares the Report signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the final Report for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the Phase III Report by signing and dating the document. See [Chapter 5](#) Section 5-8.8 for more detailed information.

The EBC sends copies of the report to Headquarters Division of Construction and to the CSO Chief.

Exhibit 6.1: Cultural Resources Letter Report Format and Content Guide

(Used only when Section 106 Programmatic Agreement does not apply)

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Exhibit 6.1:

Cultural Resources Letter Report Format and Content Guide

Use of the Cultural Resources Letter Report

Letter Reports are used only when Section 106 Programmatic Agreement does not apply **and all the cultural resources** within the APE or Project Area Limits **lack significance**.

Federal Undertakings

When Caltrans has an undertaking on or affecting Tribal Lands, the Section 106 Programmatic Agreement (Section 106 PA) does *not* apply. In this situation, Caltrans uses the Cultural Resources Letter Report (Letter Report) to consider cultural resources that normally would be exempted under [Section 106 PA Attachment 4](#). The Letter Report is used to justify that certain historical archaeological and built environment cultural resources are not eligible for inclusion in the National Register of Historic Places (National Register).

Caltrans also uses the Letter Report for projects that are federal undertakings but do not involve the Federal Highway Administration (FHWA). The Section 106 PA does not apply because FHWA is not involved. Examples of projects that are federal undertakings but do not involve FHWA include, but are not limited to projects for which Caltrans must obtain a permit from the U.S. Army Corps of Engineers or the U.S. Coast Guard, or projects in which Caltrans needs to perform work on U.S. Forest Service land.

State-Only Projects

It is not necessary to use the Letter Report for state-only projects affecting Tribal Lands unless there is a federal nexus as described above. There may be situations in which the District, at its discretion, would choose to use the Letter Report on state-only projects. However, in using the Letter Report to justify that certain cultural resources lack National Register significance, for CEQA purposes it also is necessary to include information on why the affected resources would not qualify as historical resources for purposes of CEQA.

Cultural Resources that clearly lack significance

The Letter Report is reserved for cultural resources that *clearly* lack significance either due to loss of integrity or the absence of historical associations or research values that would qualify the cultural resource as eligible for inclusion in the National Register of Historic Places or would make it a historical resource for purposes of CEQA. [Section 106 PA Attachment 4](#) may be used for guidance to document that a resource clearly is not National Register eligible:

- When archaeological resources are the subject of the Letter Report, a Caltrans PQS archaeologist at the Lead Surveyor level or above or appropriately qualified consultant who meets the standards in [Section 106 PA Attachment 1](#) completes the Letter Report.
- When the cultural resources in question are minor, ubiquitous or fragmentary infrastructure elements, or are less than thirty years old, a Caltrans PQS archaeologist at the Lead Surveyor level or above, Caltrans PQS at the Architectural Historian level or above or appropriately qualified consultant who meets the standards in Section 106 PA Attachment 4 completes the Letter Report.
- For built environment resources that are between 30 and 50 years of age, fifty years old or older and have been moved in the past fifty years, or fifty years old or older and have been altered, a Caltrans PQS at the Architectural Historian level or above or qualified consultant who meets the standards for Architectural Historian outlined in Section 106 PA Attachment 4 completes the Letter Report.

Letter Report Format

As this Letter Report follows standard Caltrans correspondence guidance, include the appropriate information as follows:

- **Date:** Enter the date the report is finalized (following required peer review).
- **Project Reference:** Indicate the district, county, route, post mile, project name, and E-FISⁱ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118, P.M. 17.5018.0, E-FIS 07000004170").
- **Addressee:** List the name title, office name and location of the Caltrans Environmental Branch Chief for whom the report was prepared.

ⁱ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- **Evaluator/Author:** A Caltrans PQS at the Lead Surveyor level or above, Caltrans PQS at the Architectural Historian level or above, or an appropriately qualified consultant, as appropriate, signs the Letter Report after peer review has been completed.

Include the following information in the body of the Letter Report:

- **Project Undertaking:** Succinctly describe the scope and purpose of the undertaking, referring to the Historic Property Report (HPSR) for detailed descriptions.
- **Research Methods:** Describe sources consulted and field inspection methods. Refer to the project Archaeological Survey Report (ASR) or Historical Resources Evaluation Report (HRER) as appropriate to eliminate redundancies.
- **Background Research:** Discuss available information regarding the historical associations and use of the property and results of the research. If a detailed historical context or research discussion is necessary, the Letter Report is not appropriate.
- **Description of Resource:** For archaeological sites, briefly describe the physical remains present at the site and its condition vis-à-vis the seven aspects of integrity, but refer to the DPR 523 forms for detailed descriptions. For built environment resources briefly describe the property type, its date of construction, date moved, date of alterations, as appropriate (e.g., single-family residence built in 1977).
- **Statement of Non-Significance:** Provide a cogent statement of the reasons why this cultural resource is clearly not eligible for the National Register and also is not a historical resource under CEQA.
- **Attachments:**
 - Vicinity Map (unless provided in HPSR and identified as such)
 - Project Location Map (Portion of USGS 7.5' quadrangle), unless provided in HPSR and identified as such
 - Appropriate DPR 523 form(s).

NARRATIVE LETTER REPORT FORMAT	
•	Date
•	Project Reference
•	Addressee
•	Evaluator/Author
•	Project Undertaking
•	Research Methods
•	Background Research
•	Description of Resource(s)
•	Statement of Non-significance
•	Attachments

Peer Review and Approval

As with all cultural resources documents, for historical archaeological resources Caltrans PQS certified at the Co-Principal Investigator—Historical Archaeology level or higher must peer review the draft Letter Report. For built-environment resources, Caltrans PQS certified at the Architectural Historian or higher must peer review the draft Letter Report. Peer reviewers in both disciplines should follow the guidelines in [Exhibit 2.13: Peer Review Guidelines](#). Peer reviewers' names should be kept on record and comments retained in the project files.

Only Caltrans PQS Co-Principal Investigator—Historical Archaeology or Architectural Historian level or higher may review Letter Reports for approval. The Caltrans PQS or consultant who prepares the final Letter Report signs, dates and includes the appropriate discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Letter Report then is attached to the HPSR. When the Caltrans PQS reviewing the HPSR for approval and the DEBC both sign and date the HPSR, indicating their approval, the Letter Report is considered to be approved.

Letter Report Form

Caltrans has developed a Letter Report form template that may be used. *Using the form is optional*; using a narrative Letter Report always is another option.

To ensure consistency and to facilitate faster reviews of the Letter Report, the headings are write-protected, and different versions of the document can be saved under a different name using the “Save As” command in Microsoft Word. If a section is not applicable, the heading will remain and the “Not Applicable” box may be checked. Deleting most of the instructions and irrelevant statements can shorten the form. Since the form is in a table format in Word, to delete the irrelevant lines:

- Highlight the row(s) of text or space to be deleted
- On the menu, click on Table (or its appropriate icon), then
- Click on “Delete,” and the lines should disappear

A sample of the Letter Report form template appears on the following pages. The template appears to be very long because it contains the range most commonly used statements with the appropriate language for each finding; *those that do not apply may be deleted* for the reasons stated above.

State of California	Department of Transportation					
CULTURAL RESOURCES LETTER REPORT						
<p>For use with federal undertakings <u>only</u> when the Section 106 Programmatic Agreement provisions cannot be used <u>and</u> the cultural resources have no potential for historic significance under National Register of Historic Places Criteria.</p>						
1. UNDERTAKING DESCRIPTION AND LOCATION						
District	County	Route	Post Miles	Unit	E-FIS Project Number	Phase
District	County	Funding Source	Federal-Aid Proj. No.	Location	E-FIS Proj. No	Phase
<i>For Local Assistance projects off the highway system, use headers in italics)</i>						
Project Description:						
<i>Insert project description below & refer reader to attached location and vicinity maps)</i>						
2. RESEARCH METHODS						
<i>(Check all that apply. This instruction line and statements that are not applicable may be deleted)</i>						
The resources in the Project APE for this project were reviewed						
<ul style="list-style-type: none"> - In the field - From photographs 						
By _____ <i>[Name and indicate whether person is Caltrans or consultant architectural historian or archaeologist]</i> , _____ <i>[Indicate applicable PQS level]</i> , who is qualified to make the required determinations.						
3. BACKGROUND RESEARCH						
<i>(When appropriate, discuss available information regarding the historical associations and use of the property and results of the research. This instruction line and statements that are not applicable may be deleted)</i>						
<ul style="list-style-type: none"> - Not Applicable - Archaeological Site Records <i>[List names of Institutions & date below]</i> <ul style="list-style-type: none"> • - Other sources consulted <i>[e.g., historical societies, city archives, etc. List names, dates and results below]</i> <ul style="list-style-type: none"> • - Results: <i>(Provide a brief summary of records search and research results, as well as inventory findings)</i> <ul style="list-style-type: none"> • 						
4. DESCRIPTION OF RESOURCE(S)						
<i>(Briefly describe archaeological sites: physical remains present at the site and its condition vis-à-vis the seven aspects of integrity, and refer to the DPR 523 forms for detailed descriptions. For built environment resources briefly describe the property type, its date of construction, date moved, date of alterations, as appropriate (e.g., single-family residence built in 1977). This instruction line and statements that are not applicable may be deleted)</i>						
<p>[LtrRpt form rev: 07-22-10] Copyright © 2014 California Department of Transportation. All rights reserved.</p>						Page 1

State of California	Department of Transportation
CULTURAL RESOURCES LETTER REPORT	
5. STATEMENT OF NON-SIGNIFICANCE	
<p><i>(Check all that apply. This instruction line and statements that are not applicable may be deleted)</i></p> <ul style="list-style-type: none"> - The only/only other cultural resources present within the Project APE are properties that have no potential for historic significance under the National Register of Historic Places eligibility criteria, nor are they historical resources for the purposes of CEQA because they are: <ul style="list-style-type: none"> - Archaeological property types or resources that do not warrant recordation - Minor, ubiquitous, or fragmentary infrastructure elements that are not over 50 years old and are not properties that may contribute to the significance of larger historic properties such as districts or cultural landscapes - Buildings, structures, objects, districts, and sites less than 30 years old - Buildings, structures, objects, districts, and sites so altered as to appear less than 30 years old. - Buildings, structures, objects, districts, and sites 30 to 50 years old and do not warrant recordation or evaluation, as determined by a qualified Architectural Historian or Principal Architectural Historian - Buildings, structures, and objects moved within the past 50 years and do not warrant recordation or evaluation, as determined by a qualified Architectural Historian or Principal Architectural Historian - Buildings, structures, and objects moved 50 or more years ago and do not warrant recordation or evaluation, as determined by a qualified Architectural Historian or Principal Architectural Historian - Property Type 6: Altered buildings, structures (including roads, highways and associated features other than bridges, railroads and other than buildings or bridges), objects, districts, and sites that appear to be more than 30 years old ago, do not warrant recordation or evaluation, as determined by a qualified Architectural Historian or Principal Architectural Historian, are not listed in a local survey of historical properties, and the conclusion of not historically significant is not controversial. 	
6. LIST OF ATTACHED DOCUMENTATION	
<p><i>(Check all that apply. This instruction line and statements that are not applicable may be deleted)</i></p> <ul style="list-style-type: none"> - N/A. Project Vicinity, Location, and APE Maps are attached to the HPSR - Project Vicinity, Location, and APE Maps - DPR 523 Primary Records for archaeological sites <i>(List below)</i> <ul style="list-style-type: none"> • - Other <i>(Specify below)</i> <ul style="list-style-type: none"> • 	
7. CULTURAL RESOURCES LETTER REPORT PREPARATION AND APPROVAL	
Prepared by <i>(sign on line)</i> :	
District/Region ___ Caltrans PQS	<i>PQS level and discipline</i>
	<i>Date</i>
Prepared by: <i>(sign on line)</i>	
Consultant / discipline:	<i>[Appropriate PQS discipline]</i>
Affiliation	<i>[Firm/company and location]</i>
Reviewed for approval by: <i>(sign on line)</i>	
District/Region ___ Caltrans PQS	<i>[PQS certification level]</i>
discipline/level:	<i>Date</i>

Exhibit 6.2:

Historical Resources Evaluation Report Format and Content Guide

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Exhibit 6.2: Historical Resources Evaluation Report Format and Content Guide

Historical Resources Evaluation Report (HRER) Format

The Historical Resources Evaluation Report (HRER) is used to document identification, recordation and evaluation efforts for historical archaeological resources, built environment resources, such as buildings, structures, objects, districts, and linear features.

While the level of detail will vary depending on the nature and scope of the project, its potential to affect historic properties, and the significance of the identified resources, HRERs should adhere to the following basic format and content guidelines. The content may vary depending on the types of properties discussed. This exhibit offers guidance on what to include in the HRER, with appropriate sections detailing differences when reporting on built environment properties versus archaeological resources. A single HRER may discuss both built and archaeological resources where that is feasible; however, multiple HRERs may be prepared for an undertaking depending on the complexity of resources, degree of effect, or whether consultants will evaluate specific resources.

HRER FORMAT

- Title page
- Summary of Findings
- Table of Contents
- Project Description
- Research Methods
- Historical Overview
- Field Methods
- Description of Cultural Resources
- Resource Significance (if applicable)
- Findings and Conclusions
- Bibliography
- Preparer(s)' Qualifications
- Maps
- DPR 523 Forms
- Other Attachments

Title Page

The title page contains the following information to identify the project and preparer(s) of the report:

- Name of the study and the project
- County, route, and postmile or local street or road name

- E-FISⁱ project number and phase, or for a Local Assistance project, use the Federal-Aid number (e.g. "07-Ven-118,P.M. 17.5018.0, E-FIS 07000004170")
- Project contract number (if prepared by consultants)
- Name, title, location, and signature of the Caltrans District Branch Chief for whom the report was prepared. The Environmental Branch Chief's (EBC) signature on the title page indicated approval and acceptance of the document
- Name, title or Caltrans PQS certification level, as appropriate, location, and signature of the preparer(s)
- Name, Caltrans PQS certification level, location and signature of Caltrans PQS approving the report (if different than preparer)
- Date (month/year) HRER was prepared (appears at bottom of page)

Summary of Findings (Abstract)

This section briefly summarizes, in one page or less, the intent, methods and results of the study. It includes:

- A concise description (abstract) of the proposed project.
- Purpose and scope of the investigation.
- Results of the investigation. State the total number of properties that required evaluation and summarize the consequent findings.
- For each property that is eligible for inclusion in the National Register of Historic Places (NRHP): state the name, location, applicable criteria, and period and level of significance, and
- State which resources are/are not historical resources for the purposes of CEQA.

Table of Contents

A table of contents facilitates review of the document because it allows a reviewer to locate information more efficiently. List the major sections, subsections, appendices, maps, figures, tables, and exhibits of the HRER with corresponding page numbers.

Project Description

While the District Project Development Team typically provides the project description, it is important that the cultural resource specialist present this information in a way that is relevant to cultural resources:

ⁱ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

- Describe major design features concisely, but with sufficient illustrative detail to ensure that a reviewer not familiar with the project or project area has a clear understanding of its potential to affect historic properties and/or historical resources. Discuss the scope of proposed project activities and components (e.g., addition of passing lane, new alignment with intersection) and the need for new right-of-way or temporary construction easements.
- Describe the Area of Potential Effects (APE).
- Include a statement about the general environment, such as whether the project lies in an urban or rural area.
- Reference all pertinent maps (Project Vicinity, Project Location, APE, etc.).

Research Methods

Briefly, discuss sources and methodology used in conducting pre-field, background, and resource-specific research. Cite the standard sources of information used, such as NRHP and California Register of Historical Resources (CRHR) listings, and California Historical Landmarks and California Points of Historic Interest listings (See [Chapter 4](#) and [Exhibit 4.2](#)), and a statement regarding the areas (themes) of research used to establish the historical context in which the resources within the APE were evaluated (see [Chapter 7](#)). Note the names and locations of research facilities utilized. This section also serves to document any public participation and consultation to date, including contacts with local historical societies, planning agencies, or interested individuals, and interviews with knowledgeable persons.

Field Methods

List the date(s) that fieldwork was conducted and identify the participants. Describe explicitly the survey methods that were used. For historical archaeological sites, include any archaeological field methods that were employed (e.g., mechanical or hand excavation, broad area exposures, or number and spacing of excavation units). Include a section on laboratory methods, as appropriate.

Historical Overview

The historical overview provides the broad context in which the cultural resources within the APE were evaluated for historical significance. Summarize the results of the background research, focusing on the areas or themes directly related to the resource(s) under evaluation, as identified in the Research Methods section. The historical overview is not intended to provide the definitive history of an area or historical person(s) except as the person(s) can be directly associated with an evaluated

resource. Rather, it provides the frame of reference within which the cultural resources were evaluated. Unrelated information should not be presented.

The overview begins with a general, but brief, historical introduction, then narrows the focus to the regional level and ends with a discussion of topics directly related to the resources being evaluated. Topics that are relevant may include, but are not limited to: initial settlement, economic development and demographic factors, historic events that occurred in the area, factors of industrial and commercial development, and transportation and supply networks.

Archaeological Research Context

For undertakings involving historical archaeological resources, include general research themes, and theoretical/methodological orientation for the proposed study. This section should be well grounded in comparative studies on similar site types that serve to focus the research potential of the sites in this study.

For properties that may have the potential to yield *important* information (research importance), identify the important historical research questions that are applicable. Summarize their degree of resolution in previous studies. Pay specific attention to the kinds of information needed to address such questions. The known (or likely) presence of such values in the cultural resource provides the basis for establishing its significance under NRHP Criterion D and CRHR Criterion 4.

Description of Cultural Resources

Because DPR 523 forms typically provide sufficient detail regarding the physical descriptions of recorded resources and their integrity, it is a duplication of efforts to repeat the information for built environment resources in the HRER. Rather, this section summarizes the broad range of cultural resources encountered within the APE and the general environment (rural, urban, suburban, etc.) in which they are located.

Provide a brief description of any NRHP *eligible* resources and refer, by Map Reference Number, to the appropriate DPR 523 form(s) for a more detailed description.

For historical archaeological resources, include component features (if applicable) and identify any known or suspected archaeological deposits. Describe the physical components of each site with specific emphasis on information-bearing features that support the site's eligibility under Criterion D. Discuss integrity in relationship to the site's ability to address important research questions, or to the site's ability to convey significance under other NRHP criteria if appropriate.

Be sure that the attached DPR 523 forms discuss the overall size, boundaries, and layout of the resource and refer the reader to the appropriate appended DPR 523 inventory forms, records and maps. If they are known, the DPR 523 forms need to include dates of construction or occupation, ownership, historical function, and other pertinent data. Also, be sure that the DPR 523 forms discuss the integrity of the cultural resource(s). The discussion should include the overall integrity of the cultural resources and if applicable, the integrity of its components. Note any modifications and disturbances to the resource and its setting, basing the comments on the field observations, historical records, and/or interview data.

Resource Significance

This section is included in the HRER only when evaluated resources include historical archaeological sites.

For properties that have yielded or may be likely to yield *important* information (research importance), this section identifies the important historical research questions that are applicable. Summarize their degree of resolution in previous studies. Pay specific attention to the kinds of information needed to address such questions. The known (or likely) presence of such values in the archaeological resource provides the basis for establishing its significance under NRHP Criterion D and CRHR Criterion 4.

Evaluation of historical archaeological resources requires a

closely integrated assessment of both physical and historical evidence. In arguing the case for or against eligibility, clearly explain the information recovered through analysis of the artifacts and their distribution throughout the site and how that information contributes to an improved understanding of important research themes identified above.

DPR 523 forms should include the following information in the statement of significance section:

- ❖ **Previous research** - summarize relevant previous research for its type of resources, relevant local, regional, and where appropriate, state, and national historic contexts.
- ❖ **Statement of significance** – summarize whether the resource meets the NRHP and whether it is a historical resource for the purposes of CEQA.
- ❖ For properties that do not meet NRHP criteria or are not historical resources under CEQA, explain why (no historical associations, lack of integrity, etc.).
- ❖ For properties that are eligible for the NRHP or are historical resources under CEQA, include the specific criteria, period and level of significance, and boundary descriptions. List character-defining features, if applicable, and contributing and non-contributing elements.
- ❖ State whether the resource is a NRHP criteria consideration or a CRHR special consideration. See [Chapter 4](#) and [Exhibit 4.3](#) for more details

Findings and Conclusions

A. Findings

In this section it is important to quantify and identify each evaluated cultural resource by its NRHP and CEQA status. Because all NRHP listed and eligible properties are automatically listed in the CRHR and are already considered historical resources for the purposes of CEQA, list them under the appropriate NRHP category. It is not necessary to list them again under other categories. In the Summary of Findings and Conclusions sections, however, it will be necessary to state that these historic properties are also historical resources under CEQA.

State the total number of cultural resources in the APE, the number that fall into the following categories, and list the *evaluated* cultural resources in their appropriate categories:

- Historic properties listed in the NRHP.
- Historic properties previously determined eligible for the NRHP.
- Resources previously determined *not* eligible for the NRHP.
- Historic properties determined eligible for the NRHP as a result of the current study (refer to relevant evaluations in attached supporting documentation).
- Resources determined *not* eligible for the NRHP as a result of the current study (refer to relevant evaluations in attached supporting documentation).
- Resources for which further study is needed because evaluation was not possible (e.g., archaeological sites that require a test excavation to determine eligibility).
- Historical resources for the purposes of CEQA [resources in this category would include CRHR listed or eligible (per State Historical Resources Commission determination) resources, resources identified as significant in surveys that meet State Office of Historic Preservation standards, resources that are designated landmarks under local ordinances, and resources that meet the CRHR criteria as outlined in PRC 5024.1.]
- Resources that are *not* historical resources under CEQA, per CEQA Guidelines 15064.5, because they do not meet the CRHR criteria outlined in PRC 5024.1.
- When listing the evaluated cultural resources under the applicable categories above, include their identifying information.
- To facilitate SHPO's ability to maintain the Office of Historic Preservation's computerized inventories of resources, the identifying information for the resources needs to follow a specific format that includes the name of the property (if there is one), location information, the community the resource is in (or the near-

est community) and the Map Reference Number that is keyed to the APE map, and OHP’s historical resource status code, if available.

For example:

The following properties have been determined *eligible* for inclusion in National Register of Historic Places as a result of this study:

Name	Address/Location	Community	OHP Status Code	Map Ref. #
Smith House	451 Main St.	Anywhere, CA	2	MR #1
Ortega Feed Store	10097 Highway 4	Anywhere (vic.), CA	2	MR#5

The following properties have been determined *not eligible* for inclusion in the National Register of Historic Places as a result of this study:

Name	Address/Location	Community	OHP Status Code	Map Ref. #
Able’s Prune Packing Plant	35 E. Canterbury St.	Someplace, CA	6	MR #10
Melville Apts.	8012 S. Oceanview Dr.	Someplace, CA	6	MR #15
Little River RR Via-duct	Next to SR 43, KP 10.7	El Nido, CA	6	MR #18

Repeat this format for each of the applicable categories. If there is a category that does not apply, it is acceptable to state that there are no cultural resources in that category. For example, “There are no NRHP listed historic properties within the APE.”

Do not list properties that qualified as exempt pursuant to Section 106 PA [Attachment 4](#), however state owned properties that qualify under the 5024 MOU Attachment 4 Resource Types 3-7 need minimal recordation (see [Exhibit 4.4](#)). For properties exempt pursuant to Section 106 PA, include the appropriate paragraph as follows:

[Name of Caltrans architectural historian or qualified consultant architectural historian], who meets the Professionally Qualified Staff Standards in Section 106 PA [Attachment 1](#) as an [Architectural Historian](#) or above, has determined that the only other properties present within the APE, including state-owned resources, meet the criteria for Section 106 PA/5024 MOU Attachment 4 (Properties Exempt from Evaluation).

[Name of Caltrans archaeologist or qualified consultant archaeologist], who meets the Professionally Qualified Staff Standards in Section 106 PA Attachment 1 as a Co-PI Historical or Prehistoric Archaeologist or above, has determined that the only other properties present within the APE meet the criteria for Section 106 PA Attachment 4 (Properties Exempt from Evaluation).

[Name], [Indicate whether person is Caltrans or consultant architectural historian or archaeologist], who meets the Professionally Qualified Staff Standards in PRC 5024 Memorandum of Understanding Attachment 1 as a(n) _____ [Indicate applicable PQS level], and pursuant to PRC 5024 Memorandum of Understanding Stipulation VIII.C.1 and Attachment 4, has determined that there are State-owned cultural resources within the Project Area Limits that are exempt from evaluation because they meet the criteria for **Resource Types 3 through 7**, as set forth in the PRC 5024 Memorandum of Understanding Attachment 4 (**Properties Exempt from Evaluation**). **The following state-owned cultural resource type(s) have been recorded pursuant to Stipulation VIII.C.1:** [List each resource(s) by address and include the resource type, i.e. resource type 3,4,5,6,7 or a combination thereof.]

Provide the site trinomial (e.g., CA-TRI-433) for each archaeological site covered in the document. As some Information Centers have a backlog in assigning trinomials, using a primary number is acceptable for those counties. However, every effort should be made to acquire a trinomial for evaluated archaeological sites.

The OHP Historical Resources Status Codes were revised in August 2003. Among other changes CRHR listings and eligibility determinations have been added as extensions to the code. For example “1S” means a historic property individually listed in the NRHP and also listed in the CRHR, while “1CS” means a property individually listed in the CRHR only. As of August 2003 status code “4” applies only to state-owned resources that are included in the Master List of Historical Resources through the PRC 5024 compliance process. See the Office of Historic Preservation's (OHP) [Historical Resources Status Codes](#) for a full list of the codes.

B. Conclusions

Summarize the results of the study. For each NRHP eligible property and historical resource under CEQA, provide a brief statement that includes:

- Historic and/or common name. Add the bridge number if the resource is a bridge or the trinomial if the resource is a historical archaeological site.

- Map Reference Number, address or location (unless it is an historical archaeological site for which the location is confidential)
- Applicable NRHP and CRHR criteria and the reason it meets the criteria (e.g., “It is eligible under Criterion C for its engineering significance.”) If a NRHP criteria consideration or CRHR criteria consideration, include the appropriate letter or number.
- Period of significance.
- Level of significance (local, state, national).
- Rough boundary descriptions; and
- Contributing and noncontributing elements.
- If applicable, include all state and local designations.

For example, the Smith House (Map Reference #1), 451 Main Street, Anywhere, is eligible for inclusion in the National Register of Historic Places at the local level of significance under Criterion C as a finely crafted example of the Mission Revival style. Its period of significance is 1900. The house is also a historical resource for purposes of CEQA. The boundaries are the assessor’s parcel boundaries. Contributing elements include its massing, setback and siting on the parcel, red-tiled roof, curvilinear gables, parapet and coping, patchwork textured stucco walls, arcaded entry, all windows and exterior doors, front walkway and drive; matures hedges, olive trees and trellis in the front and side yards, stucco fence enclosing the rear yard, entry foyer and living room with beamed ceilings, archways, built-in cabinetry and Spanish tile floors throughout the house, and the stucco fireplace in the living room. Noncontributing elements include the new detached rear garage, c.1960s lanai on the rear elevation and remodeled kitchen. The Smith house is also designated as Landmark #318 under the City of Anywhere’s Historic Preservation Ordinance and is California Point of Historical Interest #ZEB-995.

The summary paragraph for each eligible resource plays a pivotal role in later Section 106 documents and should be written concisely so that it can be inserted in its totality in to Findings of Effects, Memoranda of Agreement, and appropriate environmental documents, as needed. In addition, under the Section 106 PA, when SHPO responds to Caltrans’ requests for concurrence on eligibility, SHPO must reiterate the criteria, period and level of significance. It saves considerable time for the SHPO reviewer when the information is contained succinctly in one paragraph. See [Exhibit 2.15](#) for guidance on summary paragraphs.

Bibliography

The lead author will determine the appropriate citation format. Acceptable formats include *Chicago Manual of Style*, *American Antiquity*, or other standard humanities or scientific styles. All citations made in the HRER text will be included in the form of endnotes, footnotes, and/or a list of references cited.

Preparers Qualifications

Briefly summarize the professional qualifications of each person who contributed to the report. For Caltrans PQS it is sufficient to list their names, PQS level and that their qualifications are on file in the Caltrans Division of Environmental Analysis Community and Cultural Studies Office. For consultants, include name, classification or job title, qualifying degree(s) and major(s) and a one or two sentence description of qualifying experience. [Exhibit 2.15](#) contains guidance for documenting preparer(s)' qualifications.

Maps

All maps should display the district, county, route, post miles, and E-FIS project number and phase (for Local Assistance projects, use the Federal-Aid number). The Location Map and Project Map should have north arrows and graphic (analog) scales. The following maps must be included in the HRER:

- Project Vicinity Map
- Project Location Map
- Project APE Map. The APE map must be of sufficient scale to show project features, including construction limits, existing and new right-of-way limits, the limits of the APE and the locations and boundaries of historic properties/historical resources under CEQA. For state-only projects, the map would be a Project Area Map.

DPR 523 Forms

Include all relevant DPR 523 inventory forms, with a Map Reference Number assigned to each evaluated built environment resource.

Other Attachments

Maps and charts: Include detailed maps and copies of historic maps and charts, as appropriate.

Figures: Photographs, lithographs, and other graphic materials. Figures should be adequately captioned to identify the subject, view and date, with credit given to the source of that image.

Additional Resource Records: Previously prepared records that are used to support the evaluation of a cultural resource within the APE.

Historical archaeological site reports: Reports that document excavations at historical archaeological sites should include a catalog or tabulation of recovered materials and the reports of any specialized consultants. Copies of pertinent legal documents, such as deeds and other supporting historic materials, also may be attached if they are relevant.

Peer Review and Approval

For historical archaeological resources Caltrans PQS certified at the Principal Investigator level for historical archaeological resource must peer review the draft HRER. For built-environment resources, Caltrans PQS certified at the Principal Architectural Historian must peer review the draft HRER. Peer reviewers in both disciplines should follow the guidelines in [Exhibit 2.13](#): Peer Review Guidelines. Peer reviewers' names should be kept on record and comments retained in the project files. [Chapter 2](#) Section 2-5.5 and [Exhibit 2.11](#) Table C contain additional guidance on peer reviews and reviews for approvals.

Only Caltrans PQS certified at the Principal Investigator Historical Archaeology or Principal Architectural Historian level may review final HRERs for approval by the EBC. The Caltrans PQS or consultant who prepares the HRER signs, dates and includes his/her discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the HRER for approval likewise signs, dates, and includes his/her PQS discipline, level and District. Finally, the EBC approves the HRER by signing and dating the document. See [Chapter 6](#) Section 6.10.5 and [Chapter 7](#) Section 7.11.4 for more detailed information.

Exhibit 7.1: Ranking Character-Defining Features

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Exhibit 7.1:

Ranking Character-Defining Features

Caltrans guidance regarding the assessment and ranking of character-defining features (also called essential physical features or contributing elements) is based on the National Park Service publication, [*Preservation Brief 17: Architectural Character - Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character*](#), also a National Park Service publication. The guidance is also grounded in the guidance in *National Register Bulletin 15*. Contact the Built Environment Preservation Services Branch Chief in CSO for additional guidance, copies of character-defining feature forms and assistance.

When projects affect historic properties, oftentimes it is necessary to determine which features are most important to preserve in order avoid or minimize harm, to develop appropriate mitigation measures, or to determine whether proposed rehabilitation, preservation, maintenance and other activities are consistent with the *Secretary of the Interior's Treatment of Historic Properties*. To guide proposed actions or changes to historic properties Caltrans, in consultation with SHPO, developed a system of ranking features based on a set of criteria.

Ranking Criteria

A. Craftsmanship

- High: high artistic value, craftsmanship, design, materials
- Medium: expected feature linked to contributing architectural style or method of construction
- Low: standard historic fabric (*commonly found during period of significance*)

B. Conveying Significance

- High: quintessential & Indispensable (*without it the significance is lost*)
- Medium: Important (*without it significance is diminished*)
- Low: Little effect but adverse effects could be cumulative

C. Public Benefit

- High: public has the opportunity to use or enjoy with little or no effort (*outdoor public space, feature or access, public building, etc.*)
- Medium: public has the opportunity to use or enjoy but with some effort (*semi-public outdoor space, building or feature with occasional access*)

- Low: public has little or no opportunity to use or enjoy or (*mostly private spaces*)

D. Visibility and transparency

- High: Primary, salient feature (*e.g., something you can see from the street or public space*)
- Medium: Secondary, somewhat obscured (*e.g., something you can see through doors and windows*)
- Low: Tertiary/obscured (*e.g., private space that isn't visible*)

E. Integrity

- High: Intact as designed/original
- Medium: Somewhat altered but still conveys significance
- Low: Substantially altered; no longer conveys significance

Point Range (Optional)

Assigning points to achieve a ranking usually is not necessary; however, there may be times when it is useful, such as when certain features may be borderline. Caltrans developed a point system that *may* be useful in these instances, but its use is discretionary.

Points in each of the above ranking criteria would be “high” equals 5 points, “medium” equals 2 points, and “low” equals 1 point. Total points for the combined ranking criteria are “high” equals 15 points, “medium” equals 10 points and “low” equals 5 points.

Total combined points for ranking character-defining features

- 13-15 points: Most Significant (strongly conveys sense of time and place)
- 9-12 points: Significant (conveys sense and place)
- 5-8 points: Less significant (still conveys sense of time and place, but to a lesser degree)
- Less than 5 points: Historic fabric, not character-defining feature

Properties Within Historic Districts

Before character-defining features can be identified and ranked for contributing properties within a historic district, it is first necessary to identify the character-defining features of the district itself because the district character-defining features serve as the framework for the contributing properties.

When determining the character-defining features for affected contributing building or structures, first look at the setting and environment for district features and note which environmental and landscape features are linked to the district (including spatial relationships, landscaping or vegetation, access points). Then look at all sides of the building or structure, noting its character-defining features. In most cases these features would be linked to the type, style or construction of the building or structure. Rear exteriors rarely are visible from the street or public access, nor do they have public benefit, so are rarely called out as character-defining features. If the rear of contributing buildings or structures are visible by public, for instance from streets, alleys, or public walkways, the rear sides may contain character-defining features.

Look at interior of the contributing buildings or structures for features that may be visible from the street or sidewalk and that would convey *district* significance. Interior spaces other than primary rooms generally will not convey district significance or appearance. Individually eligible buildings or structures that are also district contributors might have more interior character-defining features.

Within historic district, the character-defining features for contributing properties are linked to the character-defining features of the district. Often the features for the contributing property will rank higher for that specific property than they do for the district overall.

The contributing property's character-defining features are specific to that particular property and how it conveys the district's significance. So, the relative ranking – Most significant, Significant and Less Significant doesn't always match up to the district's CDF significance. Example: Side driveways & detached garages may be significant features in a historic district, but one of the most significant features in conveying how that particular house contributes to the district.

Criteria Matrix

Below is the set of criteria for ranking character-defining features in matrix form. It was used to identify and rank the features in the examples that follow.

CRITERIA MATRIX FOR RANKING CHARACTER DEFINING FEATURES*			
	HIGH = 3 POINTS	MEDIUM = 2 POINTS	LOW = 1 POINT
A. Craftsmanship	High artistic value, craftsmanship, design, materials	Expected feature linked to contributing architectural style or method of construction	Standard historic fabric (<i>commonly found during period of significance</i>)
B. Conveying Significance	Quintessential & Indispensable (<i>without it the significance is lost</i>)	Important (<i>without it significance is diminished</i>)	Low (<i>adverse effects could be cumulative</i>)
C. Public Benefit	High	Medium	Low (<i>mostly private spaces</i>)
D. Visibility and transparency	Primary, salient feature (<i>e.g., something you can see from the street or public space</i>)	Secondary, somewhat obscured (<i>e.g., something you can see through doors and windows</i>)	Tertiary/obscured (<i>e.g., private space that isn't visible</i>)
E. Integrity	Intact as designed/original	Somewhat altered but still conveys significance	Substantially altered; no longer conveys significance
Total points in each category	15 points	10 points	5 points

RANKING		
13 – 15 points =	Most significant:	<i>Strongly</i> conveys sense of time and place
9 – 12 points =	Significant:	Conveys sense of time and place
5 – 8 points =	Less significant:	Still conveys sense of time and place, but to lesser degree
< 5 points =		<i>Historic fabric; not character-defining feature</i>

Examples

The following examples include a property that is individually eligible for inclusion in the National Register of Historic Places (National Register), a National Register eligible historic district and a contributing property within that historic district. As illustrated below, first it was necessary to identify property specific information, the qualifying National Register criteria, level and period of significance, boundaries and reasons why the historic property qualifies for the National Register. Based on this information, the architectural historians identified the features that convey the historic property's significance and ranked them based on the matrix of criteria outlined above. Knowing what features convey significance and how strongly they convey significance will assist in assessing project effects, as well as to guide maintenance procedures and how the historic properties are treated, based on project effects.

Individually eligible historic property (National Register eligibility information)

Name	Mokelumne River Bridge	Date Determined Eligible/Listed	2003
Location	SR 12	Period of Significance	1941-42
Criteria	A, C	# of Properties	1
Significance Level		# of Non Contributors	N/A
# of Contributors	N/A	Architectural Style	Swing Truss
		Architect/Builder	California Div. of Highways and Transportation
Summary of Significance	The bridge is eligible for inclusion in the National Register under Criterion A for its association with the historical development of transportation in California's Delta Region, and eligible under Criterion C for its mechanical design and functional engineering.		
Boundaries	The bridge itself.		

Individually eligible historic property

(Character-defining features and how they have been ranked)

Ranking	CDF #	Character-Defining Feature Number and Description	A	B	C	D	E	Total points
M	1	• Steel riveted through truss, including curved portal elements on the west and east ends of the structure, bracing members, and stringers	3	3	3	3	3	15
S	2	• Control house (including metal siding, corrugated metal roof, concrete flooring, fenestration patterns and openings)	2	3	2	3	2	12
S	3	• General Electric Generator	2	2	2	2	3	11
S	4	• Bridge controller platform, hand brake, and control panel	2	2	2	2	3	11
S	5	• Electrical cabinet and air compressor	2	2	2	2	3	11
S	6	• No. 45 Concrete Pier (in center of bridge)	1	2	2	3	3	11
S	7	• Concrete deck	2	2	2	2	2	10
S	8	• Original bathroom (now storage closet)	2	2	2	1	2	9
L	9	• Dolphins and fenders	1	1	2	2	2	8

Eligible and listed historic district

(National Register eligibility information)

Name of District	Markham Place Historic District	Date Determined Eligible	3/31/83 Listed 3/07/13
Criteria	A, C	Period of Significance	1887-1935
Significance Level	Local	# of Properties	70
# of Contributors	61	Number of Non Contributors	9
Summary of Significance	Criterion A: community planning; criterion C: architecture. Dense concentration of residential buildings in a variety of styles, nearly all designed by noted architects before WWI; many of the houses were designed by Frederick L. Roehrig. Mature landscaping, period street furniture and park unify district.		
District Boundaries	City of Pasadena. Roughly bounded by Markham & Congress Places, Bellefontaine St., Pasadena & St. John Aves.		

Eligible and listed historic district
 (Character-defining features and how they have been ranked)

Markham Place Historic District							
Ranking	Character Defining Feature	A	B	C	D	E	Total points
Most significant	• Large, mostly two-story architect-designed homes (40 of the 61 contributors designed by noted and local architects) and the architectural features that define the particular architectural styles of the district.	3	3	3	3	5	15
Most significant	• Houses on S. Pasadena Ave. consistently have deeper setbacks and are built on elevated berms.	3	3	3	3	3	15
Most significant	• Roof height & type are consistent: mostly asymmetrical and gabled.	3	3	3	3	2	14
Most significant	• Open landscaping with high visibility into the homes through size and pattern of fenestration and doorways, plus Craftsman characteristic of blending interior and exterior spaces.	2	3	3	3	3	14
Most significant	• Cobblestone (river rock) retaining walls, pillars, porch piers and walls.	3	3	3	2	3	14
Most significant	• Planting strips have consistent setbacks, are bordered by early 20 th century narrow scored sidewalks and contain evenly spaced street trees; trees vary from block to block.	2	3	3	3	3	14
Most significant	• Predominance of organic materials in buildings & structures (e.g. wood siding)	2	3	3	3	2	13
Most significant	• Consistent setbacks and lot size with houses oriented to the street.	2	3	2	3	3	13
Most significant	• Along S. St. John Ave. open porches form a consistent linear pattern (consistent and even porch openings).	2	3	3	3	2	13
Most significant	• Singer Park is major open space anchoring northwest corner of the district.	2	3	3	3	2	13
Most significant	• Street lights are the same on a given street, but vary from plain concrete aggregate poles with round globes, to fluted smooth concrete aggregate columns with simple capitals and round globes or acorn globes.	2	2	3	3	2	12
Most significant	• Rows of mature, slender palm trees along street frontage (early 20 th century landscape planning element).	2	2	3	3	2	12
Most significant	• Side driveways lead to detached garages at the rear of the property. Some driveways are two-track with grass or pebble rock infill.	2	3	2	2	2	11
Most significant	• Mature landscaping features (yard trees, shrubs in banks and along facades, front lawns).	1	2	3	3	2	11
Significant	• Scattered low hedges, open (picket, etc.) fences define property lines but do not obscure visibility.	1	2	2	3	2	10
Significant	• Pedestrian access includes footpaths from side driveways to front door and from sidewalk to front door.	1	1	2	2	2	8
Significant	• Street curbs are distinctive early 20 th century concrete with deep, curved cuts at street intersections and driveways.	1	1	1	2	3	8

Contributing Property in Markham Place Historic District
(National Register eligibility information)

Historic Name	N/A	Architectural Style	Craftsman Bungalow
Address	650 S. St. John Ave., Pasadena	Architect/Builder	Edward C. Kent / W.C. Stevens
Parcel Number	48234	Date of Construction	1906
Name of District	Markham Place Historic District	Interior Character Defining Features?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Final Disposition - Post Construction			
<input type="checkbox"/> Individually Eligible	<input type="checkbox"/> Return to original site	<input checked="" type="checkbox"/> <u>Remain on site</u> (possible part take)	
<input checked="" type="checkbox"/> District Contributor	<input type="checkbox"/> Reconstruct	<input type="checkbox"/> Relocate	
	<input type="checkbox"/> Unknown at this time	<input type="checkbox"/> Demolish	

Contributing Property in Markham Place historic District
(Character-defining features and how they have been ranked)

Contributing Property in Markham Place Historic District		
Ranking	Character Defining Feature and Description	Corresponding District CDF#
M	One and one-half story Craftsman residence located mid-block on medium-sized lot with setback that is consistent to the district	1,3,4,7,9
M	Landscape features include mature street trees	4,12,14
M	Complex, asymmetrical form with multiple moderately pitched intersecting gables	1,3
M	Roof eaves are open with exposed rafters, large knee braces, and batten siding within the gable ends	1,3,7
M	Two large window boxes with brackets and bracketed window overhangs	1,7,4
M	Natural material of shingle siding	7
M	Primary (west) façade is asymmetrical with moderate transparency quotient	1,4,7
M	Primary (west) façade windows: Window A: Two pairs of wood-cased casement windows with 6 lights each leaf and side surrounds Window B: Four pairs of wood-cased casement windows with 6/1 lights in Craftsman pattern each leaf (set on first story, protrudes from façade)	1,4,7
S	Side (south) elevation is asymmetrical with moderate transparency quotient	1,4,7
S	Side (south) elevation main entry is an oversized door of quarter sawn oak, with original hardware and original screen door	1,4,7
S	Side (south) elevation secondary entry is one pair of French doors with Craftsman-pattern lights	1,4,7
S	Side (south) elevation windows: <u>Window F</u> : One wood-cased fixed/double-hung/ fixed bay window with 10/1-3/1-10/1 lights in Craftsman pattern <u>Window G</u> : One wood-cased 3-part casement/ fixed/casement windows with 8-1-8 lights in Craftsman pattern <u>Window H</u> : One wood-cased 3-part casement window with a pair of casements at the center flanked by single casements, with 2/1 lights each pane in Craftsman pattern <u>Window I</u> : One pair of wood-cased casement windows with 2/1 lights in Craftsman pattern <u>Window I-1</u> : 4-light wood slider on sleeping porch	1,4,7

Contributing Property in Markham Place Historic District		
Ranking	Character Defining Feature and Description	Corresponding District CDF#
S	Deck entry porch with wood rail on side (south) elevation	1,4,7
S	Side (north) elevation is asymmetrical with low transparency quotient	1,4,7
S	Two glazed and paneled Craftsman doors on the side (north) elevation	1,4,7
S	Side (north) elevation windows: <u>Window J</u> : Two pair of wood-cased casement windows with 6 lights each leaf <u>Window K</u> : Four paired wood-cased casement windows with 2/1 lights each leaf in Craftsman pattern <u>Window L</u> : One wood-cased triple fixed window with a single pane each leaf <u>Window M</u> : One wood-cased casement window with 6 lights <u>Window N</u> : Two pair of wood-cased casement windows with 2/1 lights each leaf in Craftsman pattern <u>Window N-1</u> : Two openings on second sleeping porch	1,4,7

Exhibit 7.2: Bridge Numbering and Historic Status Codes

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Exhibit 7.2: Bridge Numbering and Historic Status Codes

Bridge Numbering System

State-owned bridges are listed in the Caltrans historic bridge inventory in numerical order, according to the following hierarchy: by district, in numerical order; by county number, in numerical order within the district; and by bridge number. Bridges owned by local agencies follow a similar numerical pattern but are listed first by county, then bridge number. In addition, local bridges include the letter “C” in the county number. For instance, Bridge #51-10, is located on Route 101 crossing Zaca Creek in Santa Barbara County. It is listed under District 5, under County 51 (Santa Barbara), and under number 51-10. Bridge #51C-47, is a local bridge in Santa Barbara County that crosses San Ysidro Creek and carries San Leandro Lane.

For purposes of assigning bridge numbers, Caltrans adopted a system in which all the counties in California were numbered sequentially by geography, starting with the northwest corner of the state and proceeding eastward, then moving to the next “row” of counties. Bridges are arranged by bridge number rather than by route and post mile.

In addition to the bridge number, the inventory list a county-route-post mile location, a common name for the bridge, the name of the municipality (if any) in which the bridge is located, and a “historical significance” category.

To determine the Bridge Inventory’s National Register status for a bridge as described above, locate the bridge by its bridge number and identify its “historical significance” category.

California Historic Bridge Inventory Historic Status Codes

The Structures Maintenance, Division of Structures database for state bridges and local bridges contains National Register of Historic Places (National Register) significance ratings. The “Historical Significance” classifications correspond to the Caltrans “National Register status” categories for each bridge. In some cases these categories do not correspond to the Office of Historic Preservation’s Historical

Resources Status Codes (OHP status code), which are provided in parentheses. The significance categories are defined as follows:

Category 1. Listed in the National Register

A small number of bridges fall under this category. Either of the following documents may serve as the Bridge Evaluation for a Category 1 bridge (OHP status code 1S or 1D):

1. A copy of the Historic Bridge Inventory “Bridge Rating Sheet” for that bridge, available in the District or upon request from CSO; or
2. A copy of the National Register nomination form for the bridge, usually available from the Office of Historic Preservation.

Category 2. Determined Eligible for the National Register

Most Category 2 bridges were determined eligible as a result of the California Historic Bridge Inventory and subsequent evaluations and updates since 1986. Either of the following documents may serve as the Bridge Evaluation for a Category 2 bridge (OHP status code 2S or 2D, and/or for state-only projects for state-owned bridges 4CM):

1. A copy of the Historic Bridge Inventory “Bridge Rating Sheet” for that bridge, available in the District or upon request from CSO; or
2. Copy of the SHPO letter concurring with the determination or the Keeper of the National Register’s letter documenting the Keeper’s determination.

Category 3. Appears Eligible for the National Register, but not Officially Determined Eligible

Most of the bridges previously identified as Category 3 were evaluated in the 2006 update to the Historic Bridge Inventory and were changed to Category 2, 4, or 5 based on the results of the survey. Seven bridges identified as Category 3 (OHP status code 3S or 3D) structures in the original 1986 survey were evaluated in the updated survey. These are structures that are owned by federal or other state agencies. They will retain their Category 3 designation and will require re-evaluation if located within the APE for a project.

Category 4. Status Undetermined, Requires Further Research

Category 4 (OHP status code 7N, 7N1 or 7R) is a default category used for bridges not evaluated as part of the Historic Bridge Inventory. Under the updated survey, it primarily will include bridges that are not individually significant under any of the National Register criteria, but may be contributors to a larger property, such as

bridges constructed by the Bureau of Reclamation as part of the Central Valley Project canals and bridges on old Route 66 in San Bernardino County. Many railroad bridges also will be included in this group. If a Category 4 bridge is located within the APE for a project, an evaluation will be needed to determine whether the bridge is a contributor to a larger historic property (OHP status codes may vary depending on the outcome of the evaluation).

Category 5. Not Eligible for Listing in the National Register

Category 5 bridges were determined not eligible through the Section 106 process, either through a consensus determination with SHPO or a formal determination of ineligibility by the Keeper of the National Register. The vast majority of bridges fall into this category. A copy of the relevant Historic Bridge Inventory printout sheet serves as the evaluation for a Category 5 bridge in most cases. All bridges constructed before 1964 have been evaluated in the Bridge Inventory Updates completed since 1986. Bridges constructed in 1965 or later must be evaluated if they will become 50 years old by the time a project would be completed.

Exhibit 7.3: Historic Bridges and Tunnels Screened Undertakings and Activities

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Exhibit 7.3:

Historic Bridges and Tunnels: Screened Undertakings and Activities

Attachment 2: *Classes of Screened Undertakings* of the [106 PA](#)¹, and for state-owned cultural resources Attachment 2: *Screened Projects and Activities* of the [5024 MOU](#)² identifies undertakings, projects and activities that typically have no potential to affect historic properties. Screened undertakings allow Caltrans Professionally Qualified Staff (PQS) to determine that certain individual undertakings may be exempt from further review of consultation under the 106 PA or the 5024 MOU. However, additional Section 106 review or PRC 5024 review will be required if the Caltrans PQS determines that the undertaking has potential to affect other historic properties, as described in Attachment 2 of either the 106 PA or the 5024 MOU.

This list below was developed to clarify routine maintenance-type activities specific to historic bridges and tunnels under Attachment 2 of the 106 PA and the 5024 MOU. Caltrans considers the activities listed below to have no potential to affect the character-defining features or historic fabric of historic bridges and tunnels. Screened undertakings specific to bridges and tunnels regardless of type or material are presented first, followed by undertakings involving specific materials and structure types in the lists below.

Common bridge design terms, definitions, and sources of further information on historic bridges and tunnels in California can be found on the [Caltrans Historic Bridge Inventory website](#). Definitions and references to further information on items in bold text (such as bridge components and bridge-related activities) are provided at the end of [Exhibit 7.4](#) of the Caltrans [Standard Environmental Reference Volume 2- Cultural Resources \(SER v2\)](#). Definitions are drawn from the American Association of State Highway and Transportation Officials (AASHTO); design, construction, and maintenance standards from Caltrans and/or the Federal Highway Administration

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California (106 PA)*, effective January 1, 2014.

² *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*, effective January 1, 2015.

(FHWA); the National Park Service (NPS); and the California Office of Historic Preservation.

Bridge Activities That Do Not Need Environmental Review

This list was developed to clarify routine maintenance activities specific to bridges and tunnels, and their approaches, that fit under one or more classes of undertakings in Attachment 2: *Classes of Screened Undertakings* of the [106 PA](#) or Attachment 2: *Screened Projects and Activities* of the [5024 MOU](#). The following maintenance activities that occur on bridges and their approaches do not need to be reviewed for compliance under Section 106, the California Environmental Quality Act, California Public Resources Code 5024, or Governor's Order W-26-92.

- Snow removal
- Removal of debris, vegetation, and obstructions (weeds, brush, and overhanging limbs, garbage)
- Nondestructive sign maintenance (washing or cleaning), including commemorative bridge sign
- Tighten loose fittings, fasteners, bolts, hardware, or connections
- Application of lubrication to bearings, moving parts, or other machinery
- Clean, flush, and unplug drainage system including drains and conduit
- Cleaning interior surfaces of tunnels

The other screened undertakings in the Attachment 2 of the 106 PA and the 5024 MOU have the potential to affect historic bridges and tunnels. See [Exhibit 7.4](#) for guidance on processing the other classes of undertakings that occur on historic bridges and tunnels.

Exhibit 7.4: Historic Bridges and Tunnels No Adverse Effects with Standard Conditions

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Exhibit 7.4:

Historic Bridges and Tunnels

No Adverse Effects with Standard Conditions

A Finding of No Adverse Effect with Standard Conditions is appropriate when Other activities, or undertakings that involve historic bridges and tunnels¹, are completed in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS)* in accordance with the Stipulation X.1.b of both the 2014 First Amended Section 106 Programmatic Agreement ([106 PA](#)²) and the 2015 Public Resources Code 5024 Memorandum of Understanding ([5024 MOU](#)³) for state-owned bridges and tunnels. Such findings must be reviewed by a Caltrans Professionally Qualified Staff (PQS) Principal Architectural Historian.⁴

The *No Adverse Effect with Standard Conditions* through use of the SOIS (FNAE-SC-SOIS) is appropriate for the activities listed below. The affected character-defining features (CDFs) need to be identified in order to assess the effects to the historic bridge or tunnel and a Standard Conditions Action Plan must be developed; see [Exhibit 7.5](#): SOIS Action Plan. If the project includes many of these activities, is

¹ Historic bridges and tunnels are those that are listed on or eligible for listing on the National Register of Historic Places (Category 1 or 2 of the Caltrans Historic Bridge Inventory). For purposes of CEQA this includes bridges and tunnels listed in the California Register of Historical Resources or that meet the California Register criteria, registered California Historic Landmarks (CHL) and locally designated bridges and tunnels. For PRC 5024 purposes, this also includes state-owned historic bridges and tunnels that are registered or eligible as CHLs, in addition to National Register listing and eligibility.

² *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 National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California*, January 1, 2014.

³ *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*, effective January 1, 2015.

⁴ See Attachment 1 of the [106 PA](#) and the [5024 MOU](#) for a description of Professionally Qualified Staff, including Principal Architectural Historian

a full rehabilitation or involves complex bridges or tunnels, it may be necessary to identify the CDFs of a historic bridge or tunnel. [Exhibit 7.1, Ranking Character-Defining Features](#), in the Caltrans [Standard Environmental Reference Volume 2-Cultural Resource](#) (SERv2) provides guidance. This ranking process identifies the CDFs most important to preserve, helps prioritize which CDFs to protect when considering project alternatives, and provides guidance in distinguishing between CDFs and historic fabric. To reach an FNAE-SC-SOIS, an action plan as described in Attachment 5.2 of the [106 PA](#) and the [5024 MOU](#) for state-owned historic bridges and tunnels must be completed and then approved by Caltrans PQS in order to identify who will monitor the work to ensure it meets the SOIS.⁵

In cases where actions are determined to be an FNAE-SC-SOIS, Caltrans shall concurrently provide the Caltrans Division of Environmental Analysis Cultural Studies Office and any consulting parties, as appropriate, with documented notification of the finding, as outlined in the Stipulation X.B.1 of the [106 PA](#) and the [5024 MOU](#) for state-owned historic bridges and tunnels.

Proposed activities that are required for compliance with the Americans with Disabilities Act (ADA) are subject to the alternative provisions of the California Historical Building Code and require consultation with the State Historical Building Safety Board in addition to individual review by Caltrans PQS Principal Architectural Historian(s). This type of federal undertaking may or may not be considered an FNAE-SC-SOIS. If conditions other than the SOIS are proposed, it is possible that either a Finding of No Adverse Effect without Standard Conditions or a Finding of Adverse Effect is appropriate; see Stipulation X.B.2 of the [106 PA](#) or the [5024 MOU](#) for state-owned historic bridges and tunnels; see [Exhibits 2.8](#) and [2.9](#).

Seismic retrofit activities receiving Federal-Aid for individual projects under the Local Bridge Seismic Safety Retrofit Program (Program) are subject to [106 PA](#) Stipulation XVII and Attachment 7.

⁵ [Exhibit 7.5](#) of the SERv2; and Attachment 5.2 of the [106 PA](#) and the [5024 MOU](#) Attachment 5.2 state who is qualified to be monitors for this type of finding..

The list below is organized first by activities specific to bridges and tunnels, regardless of type or material, followed by activities involving specific materials and structure types. Definitions and references to further information on items in bold text (such as bridge components and bridge-related activities) are provided at the end of this document. These definitions are drawn from the American Association of State Highway and Transportation Officials (AASHTO); design, construction, and maintenance standards from Caltrans and/or the Federal Highway Administration (FHWA); the National Park Service (NPS); and the California Office of Historic Preservation.

**ACTIVITIES AND UNDERTAKINGS THAT MAY BE
FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS**

Bridge Approach and Adjacent Roadway

- Refer to *Specific Activities by Material* (see below) for additional information.
- In-kind repair, replacement of contributing wingwalls, approach railings and spans.

Deck

- Refer to *Specific Activities by Material* (see below) for additional information.
- Application of waterproof sealant or overlay (e.g., polyester concrete overlay, methacrylate, silane, or polymer).
- Installation of **cathodic protection**.
- **In-kind replacement** of the deck.
- Installing **skid resistant** devices (such as anti-skid studs) to concrete or metal.
- Repair – **patching, bonding, and filling voids** in timber or metal decks (**pot holes** and cracks).

Abutments, Bents, Piles, and Piers

- Refer to *Specific Activities by Material* (see below) for additional information.
- **In-kind replacement** of bent, pile, pier, girder or **column** and associated **bent cap**.
- Repair of **footing** or implementation of measures to address settlement and **scour**, such as providing a **pile, deadman, or shoring**.
- Application of waterproof sealant or painting (refer to *Specific Activities by Structure Type or Materials* below for further guidance).
- In-kind **patching, bonding, and filling voids in concrete** caused by cracks, **spalling**, or deterioration.
- In-kind repair of steel or timber components.

Sidewalks, Curbs, and Gutters

- Refer to *Specific Activities by Material* (see below) for additional information.
 - **In-kind repair or replacement sidewalks, curbs, and gutters.**
-

**ACTIVITIES AND UNDERTAKINGS THAT MAY BE
FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS**

Railings

- Refer to *Specific Activities by Material* (see below) for additional information.
 - **In-kind repair or replacement** of contributing railings.
 - Replacement applying the California State Historical Building Code.
 - On a case-by-case basis, installation of visually compatible **safety devices** (guardrails, barriers) between roadway and historic railings.
-

Drainage

- Refer to *Specific Activities by Material* (see below) for additional information.
 - **In-kind repair or in-kind replacement of drainage system** including drains and **conduit**.
-

Expansion Joints

- None identified.
-

Other

- Refer to *Specific Activities by Material* (see below) for additional information.
- Testing or sampling of bridge components.
- **In-kind repair or in-kind replacement of utility facilities.**
- **In-kind repair or in-kind replacement** of safety walks and railing, exit stairs, and ladder structures.
- **In-kind repair, in-kind replacement,** or installation of visually compatible **traffic control devices**, such as markings (delineators, object markers, colored pavement, temporary barricades, channelizing devices, and island), signs, and traffic signals.

In-kind repair, in-kind replacement, or installation of visually compatible **signs, and safety devices** (overhead and changeable message signs).

ACTIVITIES AND UNDERTAKINGS THAT MAY BE FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS

SPECIFIC ACTIVITIES BY MATERIAL

Concrete

- Cleaning with water or compressed air with non-destructive method following testing on small area.⁶
- **In-kind repair (patching, bonding, and filling voids in concrete)** after first testing the repair method on a small area to ensure compatible texture and color.
- Removing water stains or residues with non-destructive method following testing on small area.⁴
- Non-destructive graffiti removal.^{4, 6}
- **In-kind repair or in-kind replacement of anchor bolt.**
- Application of sealant or coating to reduce water penetration.⁷
- Application of paint.⁸

⁶ Use the gentlest possible treatment that will be effective. Consider the existing condition, appearance, color, and texture of the concrete in determining the best cleaning method; the goal of cleaning is not to return the structure to a like-new appearance. Low-pressure water or compressed air can be effective in removing surface soil. Power washing with high-pressure water can be used to clean or remove coatings from high-strength concrete, but is generally not appropriate for concrete on historic structures. Water and compressed air are not typically effective in removing stains and residue. Detergent cleaners or mild, diluted acid cleaners may be appropriate in this case. Micro-abrasive and chemical surface treatments can be effective but may damage the concrete and alter its appearance, texture, and surface reflectivity. Perform trial samples or testing on small, inconspicuous areas prior to full-scale cleaning. Refer to *NPS Preservation Brief 15: Preservation of Historic Concrete* at <http://www.nps.gov/history/hps/tps/briefs/brief15.htm> for further guidance on appropriate cleaning methods for concrete on historic structures.

⁷ Sealants and coatings include clear penetrating sealers and clear or pigmented film-forming coatings to reduce water penetration into the substrate. The effects of most sealers and coatings are not reversible and may result in a change in the color, surface texture, surface reflectivity and finish of the original concrete. The effects of sealants and coatings may also reduce breathability overtime, trapping water in the substrate and resulting in damage. The Caltrans Historic Bridge Inventory website provides several studies discussing the use of sealers and coatings on concrete under Technical Guidance. If the application of a sealant or coating is necessary, perform trial samples or testing on small, inconspicuous areas. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and consistent with the Standards.

⁸ Generally, concrete should not be painted; however, for graffiti removal it may be appropriate to apply paint in areas immediately adjacent to the roadway that are not subject to excessive moisture. *Preservation Brief 38: Removing Graffiti from Historic Masonry* provides guidance for removing graffiti from stone, masonry, and concrete. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and comply with the Standards.

ACTIVITIES AND UNDERTAKINGS THAT MAY BE FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS

Steel

- Repainting bridge with historically compatible color.
 - Major or full replacement of deteriorated or missing **bolts** or **rivets**.⁹
 - **In-kind replacement** of members (**girders, beams, diagonals**, and/or **stringers**).
 - **In-kind replacement** of **floor beams** and systems.
 - Installation of **braces** to replace or strengthen connections.
 - **In-kind repair** or **in-kind replacement** of **rivet heads**.
-

Timber

- Application of non-destructive **wood preservatives, fire retardants**, and **protective finish treatments** to existing components.¹⁰
- Non-destructive graffiti removal.¹¹
- **In-kind repair** or **in-kind replacement** of deteriorated or damaged members (**siding, pile, beam, girder, stringer**), connections, and **braces**.

⁹ Deteriorated bolts or rivets should be replaced in-kind when possible. Deteriorated or missing rivets can be replaced with bolts due to the savings in labor and cost. However, rivets have a distinctly different look than bolts and maintaining this appearance can be paramount to retaining the character-defining features of a bridge. As a result, round “button-head” bolts should be used to replicate the appearance of rivets when appropriate. Button-head ends should face the most visible direction. Locations on the structure with restricted access, including the gusset plate connections, may inhibit use of the tool that installs the specialized button head bolts; in these cases, the button-head bolts should be installed and tightened without the tool to avoid reverse installations that hide the button head. Shop rivets should be used for in-kind replacement members that are being fabricated off-site.

¹⁰ Work should follow FHWA’s *Covered Bridge Manual: Publication No. FHWA-HRT-04-098* and *Guide for In-Place Treatment of Wood in Historic Covered and Modern Bridges* – see Caltrans Historic Bridge Inventory website.

¹¹ No specific guidance is developed for the proper removal of graffiti on historic timber. Protective Finish Treatments are generally addressed in Chapter 10, Issues Related to Wood, in FHWA’s *Covered Bridge Manual: Publication No. FHWA-HRT-04-098* in Chapter 10 at www.fhwa.dot.gov/publications/research/infrastructure/structures/04098/10.cfm#Toc99789846. Non-destructive measures to remove graffiti on historic timber bridges should be tested. Measures should consider the existing condition and appearance of the timber in determining the best removal method. Perform trial samples or testing on small, inconspicuous areas prior to full-scale removal. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and consistent with the Standards.

**ACTIVITIES AND UNDERTAKINGS THAT MAY BE
FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS**

Masonry

- **In-kind repair** of decorative features.
 - Re-pointing mortar joints to same depth, including the arch barrel.
 - **In-kind replacement** of damaged or deteriorated brick or stone.
 - Installation of tie rods.
 - Removing water stains or residues with non-destructive method following testing on small area.¹²
 - Filling of openings or cracks with grout.
 - Non-destructive **graffiti** removal.^{6, 12}
 - Application of sealant or coating to reduce water penetration.¹³
 - Application of paint.¹⁴
-

¹² Use the gentlest possible treatment that will be effective. Consider the existing condition and appearance of the masonry and mortar in determining the best cleaning method. Perform trial samples or testing on small, inconspicuous areas prior to full-scale cleaning. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and consistent with the Standards. Although not specific to historic bridges, *NPS Preservation Brief 1: Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings* at <http://www.nps.gov/hps/tps/briefs/brief01.htm> provides further guidance on cleaning historic masonry structures.

¹³ Sealants and coatings include clear penetrating sealers and clear or pigmented film-forming coatings to reduce water penetration into the substrate. The effects of most sealers and coatings are not reversible and may result in a change in the color, surface texture, surface reflectivity, and finish of the original concrete. The effects of sealants and coatings may also reduce breathability overtime, trapping water in the substrate and resulting in damage. The Caltrans Historic Bridge Inventory website provides several studies discussing the use of sealers and coatings on masonry. If the application of a sealant or coating is necessary, perform trial samples or testing on small, inconspicuous areas. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and consistent with the Standards.

¹⁴ Generally, masonry should not be painted; however, to address ongoing problems areas that are repeated targets of graffiti, it may be appropriate to apply paint in areas immediately adjacent to the roadway. *Preservation Brief 38: Removing Graffiti from Historic Masonry* provides guidance for removing graffiti from stone, masonry, and concrete. Samples or tests should be reviewed by Caltrans PQS to confirm that the proposed measures are appropriate and comply with the Standards.

**ACTIVITIES AND UNDERTAKINGS THAT MAY BE
FINDINGS OF NO ADVERSE EFFECT WITH STANDARD CONDITIONS**

Specific Activities by Structure Type

Movable

- **In-kind repair or in-kind replacement** of interior cabinetry and instruments within interior of operational control room.
 - **In-kind repair or in-kind replacement** of deteriorated or damaged mechanical equipment, brakes, cables, and electrical equipment.
 - **In-kind repair or in-kind replacement** of lighting for navigational aids and roadway light fixtures.
 - Installation of visually compatible navigational lighting aids and roadway light fixtures.
-

Tunnels

- Installation of visually compatible lighting, ventilation, mechanical, and communication systems.
 - **In-kind repair or in-kind replacement** of existing safety walks, railings, exit stairs, and ladder structures.
-

Definitions and References

Approach Slab: Approach slabs provide a smooth transition between a pavement that is generally supported on a yielding medium (soil that is subject to consolidation and settlement) and a structure, which is supported on a relatively unyielding foundation (bridge). See *Caltrans Highway Design Manual*, Chapter 670 at http://www.dot.ca.gov/hq/oppd/hdm/HDM_050712.pdf for details.

Approach Span: The span or spans connecting the abutment with the main span or spans.

Beam: A horizontal structure member supporting vertical loads by resisting bending. A girder is a larger beam, especially when made of multiple plates. Deeper, longer members are created by using trusses.

Bent: Part of a bridge substructure comprised of a rigid frame commonly made of reinforced concrete or steel that supports a vertical load and is placed transverse to the length of a structure. Bents are commonly used to support beams and girders. Each vertical member of a bent may be called a column, pier, or pile. The bent stands on top of some type of foundation or footer that is usually hidden below grade. A bent commonly has at least two vertical supports. Another term used to describe a bent is capped pile pier. A support having a single column with bent cap is sometimes called a "hammerhead" pier.

Bent Cap: The horizontal member resting on top of the columns.

Bolt: A fastener fitted with threads and a nut to connect bridge components. Bolts can include "button head," which describes the style of the bolt head, to replicate the appearance of rivets when appropriate.

Brace: A structural support or member to strengthen and stiffen a structure to resist loads.

Bridge Approach: The part of the bridge that may include portions adjacent roadway along with the approach slab and approach spans, that carries traffic from the land to the main parts of the bridge.

Cathodic Protection: A type of corrosion protection, including cathodic protection measures, are described in Caltrans' *Bridge Memo to Designers, 10-5*, [Protection of Reinforcement Against Corrosion Due to Chlorides, Acids Sulfates](#) at <http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/bmd.html>.

Column: Part of a bridge substructure comprised of a vertical, structural element, strong in compression. The column stands on top of some type of foundation or footer that is usually hidden below grade.

Conduit: Any pipe, arch, box, or drain tile through which water is conveyed.

Deadman: A buried object, serving as an anchor, such as cable guard rail guy anchors.

Deck: The roadway portion of a bridge including shoulders. Most bridge decks are constructed as reinforced concrete slabs, but timber decks are still seen in rural areas, and open-grid steel decks are used in some movable bridge designs.

Diagonal: A sloping structural member of a truss or bracing system.

Drainage: Features to remove runoff from the roadway and to convey surface and stream waters originating upstream of the highway to the downstream side. Drainage features are designed to accomplish these functions without causing objectionable backwater, excessive velocities, erosion, or unduly affecting traffic safety. See Chapter 800 in *Caltrans Highway Design Manual* at <http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp0800.pdf> for details.

Drainage System: A system of underground conduits and collector structures which flow to a single point of discharge.

Fire Protection: Installation of fire extinguishers in the operational control room and machinery room of movable bridges or a fire suppression system on a timber covered bridge. See Chapter H – Bridges in *Caltrans Maintenance Manual, Volume 1* at www.dot.ca.gov/hq/maint/manual/ChH.pdf for details on fire protection on movable bridges. Fire suppression systems for covered timber bridges are addressed in

FHWA's *Covered Bridge Manual* in Chapter 17 at

www.fhwa.dot.gov/publications/research/infrastructure/structures/04098/17.cfm#Toc99789937

Floor Beam: Horizontal members that are placed transversely to the major beams, girders, or trusses; used to support the deck.

Footing: The enlarged lower portion of the substructure or foundation that rests directly on the soil, bedrock, or piles; usually below grade and not visible.

Girder: A horizontal structure member supporting vertical loads by resisting bending. A girder is a larger beam, especially when made of multiple metal plates. The plates are usually riveted or welded together.

Graffiti: Caltrans graffiti removal guidance is addressed in Maintenance Manual Volume 1, Chapter D1 - Litter, Debris, and Graffiti at http://www.dot.ca.gov/hq/maint/manual/Ch_D1.pdf and in *California Department of Transportation, DD-39-R1, Deputy Directive for Graffiti Prevention and Removal*.

In-kind Repair: See definition and guidance below.

In-kind Replacement: See definition and guidance below.

Load: Weight distribution throughout a structure.

Patching, Bonding, and Filling Voids in Concrete: Repair materials and procedures are addressed in Chapter H – Bridges in *Caltrans Maintenance Manual, Volume 1*, Section H.08.1 at www.dot.ca.gov/hq/maint/manual/ChH.pdf.

Pavement Delineation, Signs, and Safety Devices: This may include raised pavement markers, guardrails, permanent signs, and barriers, but only on the traveled way, shoulders, ramps, and auxiliary lanes. This does not include markings or delineation of legends or parking stalls, markings at roadside rest areas, weigh stations, or other public service locations. See Chapter M, Pavement Delineation, Signs, and Safety Devices in *Caltrans Maintenance Manual, Volume 1* at <http://www.dot.ca.gov/hq/maint/manual/maintman.htm> for details.

Pier: A vertical structure that supports the ends of a multi-span superstructure at a location between abutments. Also see *Column* and *Pile*.

Pile: A long column driven deep into the ground to form part of a foundation or substructure. Also see *Column* and *Pier*.

Pot Hole: A pit or hole extending into the wearing surface.

Rivet: A metal fastener used in pre-1970 construction; made with a rounded preformed head at one end and installed hot into a predrilled or punched hole; the other end was hammered into a similar shaped head thereby clamping the adjoining parts together.

Scour: Erosion

Shoring: Shoring is generally considered temporary work to provide earth retaining structures or systems. See Caltrans Technical Manual, *Trenching and Shoring Manual 2011* at

<http://www.dot.ca.gov/hq/esc/construction/manuals/OSCCCompleteManuals/TrenchingandShoringManual2011.pdf> for details.

Spalling: Chipping along the edges, as at joints in concrete pavements and structures.

Stiffener: On plate girders, structural steel shapes, such as an angle, are attached to the web to add intermediate strength.

Stringer: A beam aligned with the length of a span that supports the deck.

Traffic Control Devices: Markings include pavement and curb markings, object markers, delineators, colored pavements, barricades, channelizing devices, and islands used to convey regulations, guidance, or warning to road users. Signs include traffic control devices intended to communicate specific information to road users through a word or symbol. Traffic signals include power-operated control devices by which traffic is warned or directed to take a specific action. See *Caltrans Highway*

Design Manual, Chapter 60, Topic 62 – Definitions, 62.8 Traffic (13), at <http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp0060.pdf> for details.

Utility Facilities: Pipeline and electrical and communication conduits, which are further described in *Caltrans Memo to Designers, 18-2*, and *Caltrans Memo to Designers, 18-2, Attachment* at <http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/bmd.html#sec1>

Wood Preservatives, Fire Retardants, and Protective Finish Treatments: Issues to consider related to protective treatments are outlined in FHWA's *Covered Bridge Manual: Publication No. FHWA-HRT-04-098* in Chapter 10 at www.fhwa.dot.gov/publications/research/infrastructure/structures/04098/10.cfm#Toc99789846

In-Kind Repair and In-Kind Replacement Definition and Guidance¹⁵

Repair

Repair¹⁶ of historic materials begins with the least degree of intervention possible, such as patching, piecing-in, splicing, consolidating, or otherwise reinforcing or upgrading them according to recognized preservation methods.

Repair may include the limited replacement in kind, or with compatible substitute materials, of extensively deteriorated or missing parts of features when there are surviving prototypes. Although using the same kind of material is always the preferred option, substitute material is acceptable if the form and design as well as the substitute material itself convey the visual appearance of the remaining parts of the feature and finish.

Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive [character-defining] feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.¹⁷

Replacement

Following repair in the hierarchy is replacement of an entire feature with new material because the level of deterioration or damage of materials precludes repair. If the essential form and detailing are still evident so that the physical evidence can be used to re-establish the feature as an integral part of the rehabilitation project, then its replacement is appropriate.

The preferred option is always replacement of the feature in-kind (with the same material). Because this approach may not always be technically or economically feasible, provisions are made to consider the use of a compatible substitute material.

¹⁵ Adapted from information provided by the California Office of Historic Preservation, Incentives and Architectural Review Unit, based on the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

¹⁶ For repairs, replacement of material is limited to up to 30% of the original feature or material.

¹⁷ *Secretary of the Interior's Standards for the Treatment of Historic Properties*, Standard No. 6

In the event that replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual properties. Substitute materials should be used only on a limited basis and only when they will match the appearance and general properties of the historic material and will not damage the historic structure.

When deteriorated, damaged, or lost features of a historic structure need repair or replacement, it is almost always best to use historic materials. Great care must be taken if substitute materials are used on the exteriors of historic structures. Light, moisture, and temperature changes can greatly impair the performance of substitute materials over time. Only after consideration of all options, in consultation with qualified professionals¹⁸ and development of carefully written specifications should this work be undertaken.

Substitute materials

Because the overzealous use of substitute materials can greatly impair the historic character of a historic structure, all preservation options should be explored before substitute materials are used. It is important to remember that the purpose of repairing damaged features and of replacing lost and irreparably damaged ones is both to match visually what was there and to cause no further deterioration. For these reasons it is not appropriate to cover up historic materials with synthetic materials that will alter the appearance, proportions and details of a historic structure and that will conceal future deterioration. In general, four circumstances warrant the consideration of substitute materials:

- 1) Unavailability of historic materials
- 2) Unavailability of skilled craftsmen
- 3) Inherent flaws in the original materials
- 4) Code required changes

¹⁸ Caltrans Professionally Qualified Staff at the Principal Architectural Historian level, experienced fabricators and contractors

In order to provide an appearance that is compatible with the historic materials, the new material should match the details and craftsmanship of the original as well as the color, surface texture, surface reflectivity and finish of the original material. The closer an element is to the view, the more closely the material and craftsmanship must match the original.¹⁹

¹⁹ NPS Technical Preservation Services *Preservation Brief 16: The Use of Substitute Materials on Historic Building Exteriors*.

Sources

AASHTO

Historic Bridges Glossary, AASHTO Center for Environmental Excellence (Historic Bridges Community of Practice

(http://environment.transportation.org/cop/groups/historic_bridges/pages/glossary.aspx)

Caltrans

Caltrans Highway Design Manual (<http://www.dot.ca.gov/hq/oppd/hdm/hdmtoc.htm>)

- Chapter 60, Nomenclature, Topic 62 - Definitions
- Chapter 800 - General Aspects (Drainage)
- Chapter 870 – Channel and Shore Protection Erosion Control
- Chapter 670 – Structure Approach Slabs

Bridge Memo to Designers, Caltrans, Division of Engineering Services

(<http://www.dot.ca.gov/hq/esc/techpubs/manual/bridgemanuals/bridge-memo-to-designer/bmd.html#sec1>)

Caltrans Maintenance Manual, Volume 1

(<http://www.dot.ca.gov/hq/maint/manual/maintman.htm>)

- Chapter H – Bridges
- Chapter M – Pavement Delineation, Signs, and Safety Devices
- Appendix, Section 1 – Definition of Terms

Caltrans Technical Manuals (<http://www.dot.ca.gov/hq/esc/construction/manuals/>)

- Trenching and Shoring Manual 2011

National Park Service

National Park Service, *Secretary of the Interior's Standards for the Treatment of Historic Properties* (<http://www.nps.gov/hps/tps/standguide/>)

National Park Service, *Preservation Brief 1: Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings* (<http://www.nps.gov/tps/how-to-preserve/briefs/1-cleaning-water-repellent.htm>)

National Park Service, *Preservation Brief 15: Preservation of Historic Concrete* (<http://www.nps.gov/tps/how-to-preserve/briefs/15-concrete.htm>)

FHWA

Covered Bridge Manual: Publication No. FHWA-HRT-04-098

(<http://www.fhwa.dot.gov/publications/research/infrastructure/structures/04098/10.cfm#Toc99789846>)

Exhibit 7.5: Secretary of the Interior’s Standards for the Treatment of Historic Properties Action Plan Format and Content Guide

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Exhibit 7.5: Secretary of the Interior's Standards for the Treatment of Historic Properties Action Plan Format and Content Guide

Introduction

Within the context of avoiding adverse effects to historic properties, use of the Secretary of the Interior's Standards for the Treatment of Historic Properties (SOIS), along with the relevant National Park Service guidance can avoid adverse effects to historic built-environment properties when an undertaking's activities include stabilization, maintenance, repairs, rehabilitation, or alterations. Caltrans uses SOIS to fulfill various requirements Stipulation X.B.1.b and Attachment 5 of both the [106 PA](#)¹ and the 5024 MOU² for state-owned historical resources. Attachment 5 requires the development of an SOIS Action Plan to ensure proper implementation of 106 PA / 5024 MOU Stipulation X.B.1.b, and to ensure compliance with CEQA. See [Chapter 2](#) Sections 2.3.9.2, 2.7.6 and 2.8.6.1, [Chapter 7 Section 7.12.3](#) for additional information on SOIS; [Exhibit 2.8](#) for preparing Findings of No Adverse Effect Reports, and for historic bridges and tunnels, see the guidance in [Exhibit 7.4](#) for the most common appropriate standard conditions to use for these property types

SOIS TIPS

- SOIS protection starts in the planning process, not during project implementation
- Work closely with the Resident Engineer and/or project architect, and educate construction personnel with pre-construction field reviews and training
- Treatments that are consistent with the SOIS must be included in the RE Pending File and clearly marked on project plans and in contract specifications (PS&E)
- To ensure contractor compliance, use appropriate Standard Special Provisions (SSPs), or Non-Standard Special Provisions (NSSPs) when special measures are required

¹ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California*, effective January 1, 2014.

² *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*, effective January 1, 2015.

that meet the SOIS. The Chief of the Built Environment Preservation Services Branch is available for assistance and guidance when considering this approach.

The SOIS Action Plan describes the historic properties to be protected, documents the required treatments that meets the SOIS, identifies responsible parties and their appropriate tasks, and outlines an anticipated schedule and process. An SOIS Action Plan is required whenever SOIS are proposed to avoid or mitigate adverse effects to built-environment historic properties.

SOIS Action Plans are prepared under the following circumstances:

- 1) To support a finding of No Adverse Effect with Standard Conditions-SOIS, in accordance with Stipulation X.B.1.b and Attachment 5 of both the 106 PA and the 5024 MOU.
- 2) As a measure for resolution of adverse effects under a Memorandum of Agreement (MOA) or with State Historic Preservation Officer (SHPO) concurrence in a finding of No Adverse Effect without Standard Conditions.
- 3) To support a determination of No Substantial Adverse Change to historical resources under CEQA, demonstrating that impacts to historical resources have been mitigated below the level of significance.
- 4) For long term protection of historic properties during maintenance or other activities.

SOIS ACTION PLAN FORMAT

- Title Page
- Summary of Action Plan
- Project Description
- Historic Properties Description
- Effect and Conditions Proposed
- Monitors
- Responsible Parties Action Plan Table
- Attachments

SOIS Action Plan Format

Title Page

- Name and type of project
- District, County, route and post-miles

- E-FIS³ project number and phase (For Local Assistance projects, use the Federal-Aid project number.)

The page also includes:

- Prepared for: Name, title, location and signature of the Caltrans District Branch Chief (DEBC) for whom the plan was prepared. The DEBC's signature on the title page indicates approval and acceptance of the document
- Prepared by: Name, title, location and signature of the Caltrans Professionally Qualified Staff (PQS) or consultant PQS who prepared the plan
- Reviewed for Approval by: Name, title, location and signature of the Caltrans Professionally Qualified Staff (PQS) who reviewed the plan for approval
- Month and year plan was prepared (appears at bottom of page) If a qualified consultant prepared the plan, the project contract number should appear below the E-FIS project number (or Federal-Aid project number for Local Assistance projects)

Summary of Action Plan

This section should contain the information necessary for all parties to understand the intent, methods and applications of the SOIS. It includes:

- A concise description (abstract) of the proposed project
- List of historic properties for which the SOIS(s) are to be used
- Methods of establishing the SOIS
- Measures required during each stage of the project (pre-construction, during construction, post construction)
- Responsible parties for each measure
- Anticipated dates and duration for required measures.

Project Description

- General scope of the proposed work, specifying project components relevant to the application of the SOIS
- Description of the regulatory context for which the plan was prepared (e.g., 106 PA Attachment 5, 5024 MOU Attachment 5, MOA, etc.)

³ E-FIS stands for Enterprise Resource Planning Financial Infrastructure. Beginning in July, 2010, the former project Expenditure Authorization number became an E-FIS project number. This is a 10-digit number, followed by a phase number of one or more digits.

Historic Properties Description

Describe each affected historic property, including

- Date of National Register listing; date of Keeper determination of National Register eligibility, stating that it was a Keeper determination of eligibility; date of SHPO concurrence with the determination of eligibility, stating that it was a consensus determination; or state that an eligibility consensus determination with SHPO is pending, as applicable.
- National Register Criteria⁴ under which the property is listed or eligible, including a brief reason why and the level(s) and period(s) of significance.
- Brief National Register boundary description
- Description and ranking of their essential physical features, also known as character-defining features (CDFs), see [Exhibit 7.1](#).
- Photographs of the historic properties, including a general contextual view(s) and views depicting CDFs that would be affected by the proposed project work.

While these descriptions can be in narrative format, it may be more efficient to use a Character-defining Features Summary Form (CDF Summary Form) for each affected historic property. To reduce text in this section of the action plan, the form can be attached to the SOIS Action Plan with reference made to the form(s) in this section of the plan instead of a narrative description. In addition, these forms also can be provided in advance to the project manager and project team for reference when developing treatments that would avoid or minimize impact.

The CDF Summary Form template is available on the Caltrans *Standard Environmental Reference* Volume 2-Cultural Resources ([SERv2](#)) website and its use is explained in [Exhibit 7.1](#).

Analysis of Effects Related to Conditions Proposed

Discuss in detail any conditions proposed to avoid adverse effect to each affected historic property. The details should be sufficient enough to allow a reviewer not familiar with the project or the project area to understand the extent of any direct or

⁴ And, for state-owned historical resources, the California Historical Landmark criteria, if applicable.

indirect effects on each historic property and how use of the SOIS avoids adverse effects.

This discussion may be in narrative format or table format, such as the table developed in consultation with SHPO for assessing the effects of rehabilitation projects to individually eligible properties, contributors to historic districts and the historic districts. An example of this CDF Physical Conditions Record template is available on the ([SERv2](#)) website and includes discussion headings as identified below.

Whether in narrative or table form, include in the discussion:

- Issue or work item
- Affected CDF(s) and their ranking (e.g., most significant, significant, less significant)
- Proposed treatment
- How the proposed treatment meets the SOIS
- Specific contractual language that may be required to ensure that construction contractors comply with the SOIS Action Plan, such as Standard Special Provisions (SSP) or the Non-standard Special Provisions (NSSP).
Examples of contractual language may be needed include specific language found in other guidance such as Preservation Brief 9: Repair of Historic Wooden Windows, Preservation Brief 31: Mothballing, Preservation Brief 32: Accessibility, or Preservation Brief 41: Seismic Retrofit (titles paraphrased). Questions regarding SSPs and NSSPs should be directed to the Chief of the Special Projects Archaeology Branch (SPA) in Headquarters Cultural Studies Office (CSO).
- Results of consultation with the State Historical Building Safety Board (SHBSB) regarding the application of the California Historical Building Code for code-related issues identified in the project that affect the historic properties, as required under per the [California Health and Safety Code Section 18961](#). If not applicable because there are no code-related issues, include a statement to that effect.

Monitors

Only architects who meet the [Secretary of the Interior's Professional Qualification Standards](#) for "historic architecture," Caltrans PQS Principal Architectural Historians, or similarly qualified consultants, or Caltrans staff under the direction of a Caltrans

PQS Principal Architectural Historian serve as built-environment monitors. When monitoring is required, a general rationale for the monitoring – as well as specific location, intervals, and duration – needs to be clearly stated. Provide reference to the attached project plans and specifications.

Responsible Parties

Identify appropriate Caltrans staff, agency staff, consultants or others who are the responsible parties, as well as which aspects of the plan for which they are responsible. A clear chain of command should be established, with specific tasks and contact information identified for each responsible party (e.g., Caltrans PQS Principal Architectural Historian, Environmental Construction Liaison, and Resident Engineer). Identify the parties by Position/Title to ensure continuity of accountability in the event of personnel change on a project. All parties must be aware of and acknowledge their responsibilities. See the sample [SOIS Action Plan Table](#) at the end of this exhibit.

Attachments

Include the following:

- Project Vicinity and Location maps (unless already provided in an HPSR or HRCR or other notification documentation, as applicable)
- Project APE Map (detail location(s) of the historic property, including the National Register boundaries, in relation to the project and depict project effects on the property)
- Plans and specifications, with verification that they have been reviewed by or under the direct supervision of Caltrans PQS certified as a Principal Architectural Historian with the requisite experience
- Photographs or other useful graphics (e.g., construction drawings, photo simulations)
- Correspondence with the SHBSB, SHPO, Native Americans, and any other consulting parties, or the public (e.g., local government agency), as applicable.

Peer Review and Approval

Only Caltrans PQS (certified at the Principal Architectural Historian level) may peer review SOIS Action Plans or review them for approval, which the DEBC approves. After the Caltrans Principal Architectural Historian has peer-reviewed the draft Plan and any necessary revisions have been made, the Caltrans PQS or consultant who prepares the SOIS Action Plan signs, dates the final plan and includes his/her

discipline, PQS level (as applicable) and District/Headquarters or affiliation. The Caltrans PQS reviewing the SOIS Action Plan for approval likewise signs, dates, and includes his/her PQS discipline, level and District. The DEBC signs and dates the SOIS Action Plan to signify final approval.

Transmittal

If the SOIS Action Plan has been prepared in support of a finding of No Adverse Effect with Standard Conditions-SOIS pursuant to the 106 PA or the 5024 MOU, the plan is included in the notification documents⁵ concurrently submitted to Headquarters CSO for approval and other consulting parties. When the SOIS Action Plan involves state-owned resources that are listed or eligible for inclusion in the National Register of Historic Places or for registration as California Historical Landmarks, a copy of the plan is transmitted to Headquarters CSO for approval and to SHPO for notification purposes.

Sample SOIS Action Plan Responsible Parties Table:

SOIS ACTION PLAN FOR ABC PROJECT			
STAGE	RESPONSIBLE PARTIES	TASK	DATE
	With Contact Information (name, title and phone#) * denotes primary responsibility		TASK COMPLETED
Pre-construction	Caltrans Architectural Historian* Project Manager Project Engineer	Caltrans Architectural Historian will ensure that SOIS for the Lucas McCain Barn is clearly described and illustrated in the plans, specifications and estimates (PS&E).	
	Caltrans Architectural Historian Project Manager Project Engineer	All responsible parties, including the Caltrans Architectural Historian, will review the PS&E package. Ensure that SSPs for SOIS are included in PS&E package.	
	Environmental Branch Chief Caltrans Architectural Historian * Project Manager Project Engineer	Caltrans Architectural Historian will ensure the SOIS Action Plan is included in Environmental Commitment Record (ECR) and the RE Pending File.	

⁵ Notification documentation may be a Historic Property Survey Report (HPSR), Supplemental HPSR, separate FNAE-SC-SOIS stand-alone document or, for state-only projects, a Historical Resources Compliance report. For more information see [Exhibits 2.6, 2.8, and 2.14](#).

SOIS ACTION PLAN FOR ABC PROJECT			
STAGE	RESPONSIBLE PARTIES With Contact Information (name, title and phone#) * denotes primary responsibility		DATE
			TASK COMPLETED
		TASK	
	Caltrans Architectural Historian Environmental Construction-Liaison * Resident Engineer Contractor	All responsible parties will ensure that SOISs are discussed during the pre-construction meeting. The importance of SOISs will be discussed with construction personnel and it will be stressed that no construction activity (including storage or staging of equipment or materials) should occur within the SOISs and that workers must remain outside of the SOISs at all times. Additionally, personnel will be informed of historic preservation laws that protect historic properties against any disturbance or removal of artifacts.	
	Caltrans Architectural Historian Environmental Branch Chief Environmental Construction-Liaison Resident Engineer * Contractor	The Resident Engineer will notify Caltrans Architectural Historian and Environmental Branch Chief at least three weeks in advance of construction to ensure that a Caltrans Architectural Historian will be available to monitor roof repairs, siding replacement and allow for field review of SOIS locations	
	Caltrans Architectural Historian * Environmental Construction-Liaison * Resident Engineer * Contractor *	All responsible parties perform field review of SOIS locations at least one calendar week prior to construction activities.	
During Construction	Caltrans Architectural Historian * Environmental Construction-Liaison Resident Engineer Contractor	Contractor will install temporary plastic fencing around site the Lucas McCain Barn. The fencing will be installed at least one calendar week prior to initiating any work in those areas (see attached map). The Caltrans Architectural Historian will coordinate this activity with the Environmental Construction Liaison and Resident Engineer, and be present to supervise and monitor fence installation.	
	Caltrans Architectural Historian * Environmental Construction-Liaison * Resident Engineer	Caltrans Architectural Historian will be present to monitor all construction activities adjacent to the SOIS. The Environmental Construction Liaison will conduct a weekly inspection to ensure the integrity of SOISs.	
Post Construction	Caltrans Architectural Historian Environmental Construction-Liaison	The Environmental Construction Liaison will inform the Caltrans Architectural Historian when construction is complete.	
	Caltrans Architectural Historian Environmental Construction-Liaison Contractor	The Contractor, under supervision of the Environmental Construction Liaison and/or Caltrans Architectural Historian, will remove temporary fencing at the conclusion of construction.	

SOIS ACTION PLAN FOR ABC PROJECT				
STAGE	RESPONSIBLE PARTIES		TASK	DATE TASK COMPLETED
	With Contact Information (name, title and phone#) * denotes primary responsibility			
Responsible parties as of 10-22-12	Caltrans			
	Architectural Historian	Iona Bevel	ibevel@dot.ca.gov	(213) 555-1234
	Environmental Branch Chief	Sky Ribeiro	sribeiro@dot.ca.gov	(213) 555-1235
	Environmental Construction-Liaison	Joe Moratore	jmoratore@dot.ca.gov	(213) 555-1236
	Resident Engineer	Luis Agenciar	lagenciar@dot.ca.gov	(213) 555-1237
	Contractor	To be determined		

Exhibit 7.6: Heritage Documentation for HABS/ HAER / HALS

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Exhibit 7.6: Heritage Documentation for HABS/ HAER / HALS

The Historic American Building Survey (HABS), Historic American Engineering Record (HAER) and Historic American Landscapes Survey (HALS), together, comprise the Heritage Documentation Programs (HDP), a division of the National Park Service (NPS). For this exhibit, the abbreviation HDP is used to refer collectively to the HABS, HAER and HALS documentation standards. The HDP division has developed standards for documenting historic properties, as required by Section 101(a) of the National Historic Preservation Act of 1966, as amended (NHPA). There are standards for [measured drawings](#), [large-format photographs](#) and [written history](#).

When there is an adverse effect, Section 106 and 110(b) of the NHPA require federal agencies to produce mitigation documentation to HDP standards for historic properties that are listed or determined eligible for inclusion in the National Register of Historic Places (NRHP).

In addition to federal undertakings with adverse effects, Caltrans typically uses HDP documentation standards for federal undertakings with a finding of No Adverse Effect with Standard Conditions by use of the Secretary of the Interior's [Standards for the Treatment of Historic Properties](#) (FNAE-SC-SOIS), and for state-only projects with similar effect findings under Public Resources Code 5024 and under CEQA. Documentation, particularly photo-documentation, may be needed to record: 1) existing conditions as a baseline for a rehabilitation or repair project, 2) consistency of completed work with the SOIS, or 3) the appropriate completion of mitigation measures.

National Park Service and Section 106 Mitigation

Adverse Effects

When stipulated in a Memorandum of Agreement (MOA) for a federal undertaking, that the mitigation documentation will be sent to the Library of Congress to be archived and made available to the public, it triggers NPS involvement.

The NPS regional offices oversee the HDP documentation program for their respective regions and submit the documentation to NPS in Washington, DC for final review and inclusion in the Library of Congress collections.

National Park Service Role

The NPS Pacific West Regional Office, to whom agencies in California must submit HDP documentation for Section 106 compliance, has directed that the decision whether to deposit the documentation in the Library of Congress or other repositories is the State Historic Preservation Officer's (SHPO) decision as part of its consultation with the federal agency under Section 106. *NPS cannot make that decision because it has no authority to do so.* Likewise, it is the SHPO's decision to send the documentation to other repositories instead of, or in addition to, the Library of Congress.

Once the MOA includes a stipulation reflecting the SHPO's decision to send documentation to the Library of Congress, Caltrans, as assigned by FHWA under NEPA delegation¹, contacts NPS and NPS decides the *type* of documentation. The NPS will accept, review and process any mitigation HDP documentation for a federal undertaking that the SHPO decides should be sent to the Library of Congress. There are occasions when the SHPO terminates consultation and the Advisory Council on Historic Preservation (ACHP) steps in during the resolution of adverse effect and MOA process. When this happens, the ACHP makes the decision instead of the SHPO.

The type of documentation needed is the SHPO's decision when the SHPO decides that the documentation will *not* be sent to the Library of Congress. The NPS is not involved in specifying the type of documentation or reviewing it if the documentation for a federal undertaking is *not* destined for the Library of Congress.

The NPS only reviews mitigation documentation for federal undertakings; it does not review mitigation documentation for state-only projects. If the project is not a federal undertaking, refer to the guidance in the [State-Only Projects](#) section of this exhibit.

HDP Documentation Hierarchy

In 1997 the NPS and the Advisory Council on Historic Preservation (ACHP) provided guidance to FHWA that addresses the hierarchy of documentation to be submitted to the Library of Congress². Highest on the list are National Historic

¹ As of July 2007, Caltrans has assumed all FHWA responsibilities for compliance under the National Environmental Policy Act (NEPA). This includes FHWA's Section 106 responsibilities. For more information on NEPA delegation, please refer to [Chapter 38](#) of the Caltrans Standard Environmental Reference (SER).

² This information was incorporated into the "Overview and Standard Operating Procedures National Park Service-Pacific West Region HABS/HAER/HALS Program, June 4, 2007."

Landmarks (NHL) and properties that are individually listed or eligible for inclusion in the NRHP at the *national* level of significance.

Section 106 Documentation that NPS will review

NHLs and Nationally Significant Historic Properties

The NPS Pacific West Regional Office specifies the type of mitigation documentation, once the SHPO makes this decision and the MOA has stipulated that mitigation will include documentation. NPS-specified mitigation documentation may include written and descriptive data, archival photographs and measured drawings. The documentation then is completed to the appropriate HDP standards. When the NPS Pacific West Regional Office has approved the completed documentation NPS staff will forward the documentation to NPS in Washington, DC for final review and submittal to the Library of Congress.

State and Locally Significant Historic Properties

When the SHPO decides that documentation will go to the Library of Congress for historic properties listed or eligible at the state and local levels of significance (refer to the following list), those properties will be documented to HDP standards, as specified by the NPS Pacific West Regional Office. When NPS has approved the completed documentation it will transmit the documentation to NPS in Washington, DC, as described above.

Section 106 Documentation that NPS does not review

The 1997 joint NPS and ACHP guidance, states that NPS does not review or specify types of documentation for certain kinds of state or locally significant NRHP listed or eligible properties, and the documentation is not submitted to the Library of Congress, unless the SHPO decides differently. Instead, the SHPO determines the appropriate type of mitigation documentation and specifies the repositories to which the documentation should be submitted. These property types are:

- Contributing properties in a historic district (unless unique in some way, or individually eligible)
- Properties for which a current and complete NRHP nomination is on file in the SHPO office and at the National Register Program in Washington, DC
- Structures to be moved, reconstructed or altered
- Property types determined by the NPS and SHPO already to have been comprehensively documented in its collections (e.g. Pratt truss bridges)

- Portions of linear resources, such as canals, ditches, railroads or roads of which other portions remain intact
- Minor elements of a complex (e.g. sheds and garages in a Forest Service administrative area), unless architecturally distinctive
- Ruins, collapsed structures or shells of structures that may be eligible for the NRHP because of their historical importance or associations, but that have little structure/architectural interest and/or integrity
- Sites with few above-ground resources that might more appropriately be recorded on an archaeological site form

SHPO Role

The SHPO may determine that any one of the above-listed types of historic properties will be documented to HDP standards and submitted to the Library of Congress. However, this is done on a case-by-case basis. If the SHPO determines that mitigation documentation will not be sent to the Library of Congress, the SHPO – typically after consultation with Caltrans – will specify the type of HDP documentation or an alternative form of documentation for the above-listed historic property types.

In order to add the appropriate HDP documentation stipulation into the draft MOA, Caltrans first needs to get the SHPO's decision on whether HDP documentation should be sent to the Library of Congress. Normally, the SHPO consults with the NPS Pacific West Regional Office and notifies Caltrans of the outcome of the consultation. However, to streamline the process for obtaining the SHPO's decision, it is advisable that the Caltrans District Environmental Branch Chief (EBC) include a request for this decision in the transmittal letter to the SHPO that accompanies the Finding of Adverse Effect; the request should outline the following:

- Describe the affected historic property's NRHP level of significance (national, state, local), or whether the property is listed, with documentation already on file at the SHPO or NPS
- State whether the historic property is on the "Documentation NPS Does not Review" list
- Describe the how the historic property will be affected (e.g., entire property will be demolished, building addition will be reconstructed, contributing fence pillars will be relocated)
- Request that the SHPO respond in writing (letter or email response) whether the mitigation documentation needs to go to the Library of Congress

The MOA then should reflect the SHPO's decision in the mitigation documentation stipulation.

Federal Level of Documentation

In federal undertakings, when the project's findings or mitigation measures stipulate documentation to any of the HDP standards the following levels of documentation typically are used. *These levels will vary by project*, depending on the significance of the historic property, the historic property type, the type of project, and the degree to which proposed changes, repairs, or alterations impact the historic property. As outlined in the *Secretary of the Interior's [Standards and Guidelines for Architectural and Engineering Documentation](#)*, there are three levels of documentation:

Level I Documentation:

1. *Drawings*: a full set of measured drawings depicting existing or historic conditions
2. *Photographs*: photographs with large-format negatives of exterior and interior views; photocopies with large-format negatives of select, existing drawings or historic views that are produced in accordance with the U.S. Copyright Act, as amended
3. *Written data*: history and description

Level II Documentation:

1. *Drawings*: select existing drawings, where available, may be photographed with large-format negatives or photographically reproduced on Mylar in accordance with the U.S. Copyright Act, as amended
2. *Photographs*: photographs with large-format negatives of exterior and interior views, or historic views where available and produced in accordance with the U.S. Copyright Act, as amended
3. *Written data*: history and description

Level III Documentation:

- 1) *Drawings*: sketch plan
- 2) *Photographs*: photographs with large-format negatives of exterior and interior views
- 3) *Written data*: short form for historical reports

Currently the NPS does not accept digital photographs as formal mitigation documentation. However, digital photography may be used *informally* on field records, for the purpose of producing documentation and may accept an archivally stable CD or DVD disc in addition to archivally stable prints and negatives.

The Secretary of the Interior's [*Standards and Guidelines for Architectural and Engineering Documentation*](#) states in part, “The kind and amount of documentation should be appropriate to the nature and significance of the subject. For example, Level I would be inappropriate for a building that is a minor element of an historic district, notable only for context and scale. A full set of measured drawings for such a minor building would be expensive and would likely add little new insight into the growth and development of the built environment at either the local, regional, or national level. Large-format photography (Level III) would be the more appropriate choice for documenting this type of building.”

Depending on the significance of the resource and the type of impact, Level I or II documentation may include:

- Measured drawings
- Large-format photographs
- Additional research if the existing research is sparse or outdated (e.g. older NRHP nomination forms)
- Archivally safe copies of original plans
- Vintage photographs

If the existing documentation of a historic property’s significance (NRHP nomination, HRER and DPR 523 inventory forms, etc.) or prior HDP documentation for another project affecting the same property is recent – within the past five years – or is complete, the existing documentation *may* be sufficient documentation. The SHPO will determine whether this is sufficient, depending on the historic property’s level of significance.

Photo-documentation and Project Timing

At a minimum, photo-documentation of the affected historic property must be complete prior to the implementation of the project. If NPS has determined the level of documentation, NPS must review and approve the draft documentation prior to implementation of the project. Likewise, if the SHPO has stipulated the level of documentation, at a minimum, the SHPO should have reviewed and commented on

the photo-documentation prior to implementation of the project. Ideally, the project MOA has included these conditions in the mitigation documentation stipulations.

Repositories

When the MOA stipulates documentation as a mitigation measure, it also identifies repositories for the documentation. At a minimum, repositories should include the District files and the Caltrans Library and History Center in Headquarters (for Caltrans projects). Repositories also will include the Library of Congress for NHLs, historic properties significant at the national level of significance, or if directed by the SHPO for historic properties significant at state or local levels of significance. Other repositories should include the California State Library, the Bancroft Library at the University of California, Berkeley or the Library at the University of California, Los Angeles (UCLA), and a local library or historical society (for Caltrans or local assistance projects). *However, first check with these institutions to see whether they are willing to accept such documentation prior to including them in the mitigation measure for documentation.*

Required Copies

The required number of copies of the documentation depends on the number of repositories stipulated in the MOA:

- If NPS specifies the type of mitigation documentation and the Library of Congress is specified as a repository, the number can be as few as six copies for a local agency project (local agency, local library or historical group, the SHPO, and three copies for NPS) and seven for a Caltrans project (district, Caltrans Library and History Center in Headquarters, local library or historical group, the SHPO, and three copies for NPS).
- If the SHPO specifies the level of documentation and the Library of Congress is *not* specified as a repository, the number can be as few as three copies for a local agency project (local agency, local library or historical group, and the SHPO) and four for a Caltrans project (district, Caltrans Library in Headquarters, local library or historical group, and the SHPO).
- If the historic property is significant at the national or state level of significance or a higher level of documentation is needed, additional copies may be needed for the California State Library and/or the Bancroft Library or the Library at UCLA, if these institutions are willing to accept the documentation.

The copy sent to the Library of Congress must be archivally safe (to HDP [specifications](#)). While the file copy that Caltrans or the local agency maintains should be archivally safe, other copies of the documentation do not need to be produced on archivally safe materials unless the intended repository requests it. To reduce the expense and storage needs of paper copies, check with the repositories to determine whether electronic or non-archival versions of the documentation are acceptable.

Document Processing: NPS specifies type of documentation

As described above for NHLs, nationally significant historic properties, or other historic properties for which the SHPO has determined the mitigation documentation will go to the Library of Congress, Caltrans uses the following procedure.

The Caltrans District EBC sends a letter to the NPS Pacific West Regional Office requesting the NPS to specify the type of documentation. Upon the EBC's request, the Chief of the Built Environment Preservation Services (BEPS) Branch in the Cultural Studies Office (CSO) in Headquarters can coordinate the documentation requests. The request should include:

- Project name, county, route and postmiles
- Location of the historic property
- Brief description of the historic property and why it is listed or eligible
- Description of the project effects to the historic property
- A statement that the SHPO has determined that the Library of Congress is to receive a copy of the mitigation documentation

NPS staff will respond with the type of documentation required. Qualified Caltrans staff or consultants, as outlined in [Appropriately Qualified Staff](#), below, complete the NPS-specified documentation. Prior to sending draft and final documentation to NPS, the work must be peer reviewed and approved within Caltrans as described below under "[Peer Review and Approvals](#)."

After internal peer review and approval of the draft documentation, the EBC, or BEPS Chief at the EBC's request, submits the draft reports to NPS for review and comment. When NPS returns the draft and comments to Caltrans, NPS staff also will include the HDP number assigned to the project and submittal instructions; NPS will return any archival materials that were forwarded with the draft report.

When NPS' comments have been addressed and after internal peer review and approval of the final documentation, the EBC, or BEPS Chief at the EBC's request,

submits the final report to the NPS Pacific West Regional Office, or other NPS office as instructed by the Pacific West Regional Office.

Although it may vary occasionally, the final submittal sent to NPS shall include

- 1) Library of Congress copy (1 original photo-data set)
 - CD with electronic version of cover card and index to photographs
 - Written report(s) on 25% cotton, lignin-free archival paper with a watermark that states this (NPS will not accept the report if the appropriate watermark is missing.)
 - Large-format archival photographs on HABS/HAER archival photo-mount cards
 - Negatives in acid-free negative sleeves
 - Ink-on-mylar measured drawings (when required)
 - Copyright release form (when required)

- 2) National Park Service (2 photocopies)
 - Photocopies of photo data set on regular (non-archival) paper, including:
 - Cover card(s)
 - Photo-index(es)
 - Report(s)
 - Mounted photographs

- 3) State Historic Preservation Officer (1 copy; do not send this directly to the SHPO)
 - Archival photocopies of
 - Cover card(s)
 - Photo-index(es)
 - Report(s)
 - Large-format photographs, unmounted (may be placed together in large archival sleeve)

NPS will submit the completed documentation to the appropriate collection at the National Park Service in Washington, DC, who in turn submits it to the Library of Congress. Caltrans does not send the documentation directly to the Library of Congress.

From time to time the final submission needs to be redone because of missing information, a wrong HABS, HAER or HALS number, or some other issue. When this occurs, NPS sends everything back to Caltrans for correction so that all copies of the documentation are the same. After NPS has approved the final mitigation documentation, Caltrans can transmit final copies to the repositories specified in the MOA.

Document Processing: SHPO specifies type of documentation

For federal undertakings, to streamline the process for obtaining the SHPO's decision, it is advisable that the District EBC include in the transmittal letter to the SHPO for the Finding of Adverse Effect a request that the SHPO specify the type of documentation when the documentation does not get sent to the Library of Congress. Upon the EBC's request, the BEPS Chief in CSO can coordinate the mitigation documentation requests. The request should include:

- Project name, county, route and postmiles
- Location of the historic property
- Brief description of the historic property and why it is listed or eligible
- Description of the project effects to the historic property
- *Suggested* type and level of mitigation documentation

The SHPO staff will respond with the type of documentation required, which will be included in the MOA as a mitigation measure. Qualified Caltrans staff or consultants, as outlined in [Appropriately Qualified Staff](#), below, complete the SHPO-specified documentation. Prior to sending draft and final documentation to the SHPO, the work must be peer reviewed and approved within Caltrans as described below under [“Peer Review and Approvals.”](#)

After internal peer review and approval of the draft mitigation documentation, the EBC, or BEPS Chief at the EBC's request, submits the draft reports to the SHPO for review and comment. The number of copies that the SHPO requires usually is specified in the mitigation measure; if it is not, contact the SHPO to determine this information.

After the SHPO's comments have been addressed and after internal peer review and approval of the final mitigation documentation, the EBC, or BEPS Chief at the EBC's request, submits the final report to the SHPO with the number of copies of reports, photos, indices and negatives that the SHPO has specified. The final report may include an archivally safe copy of the report if the SHPO made this stipulation. When

the SHPO has approved the final mitigation documentation, Caltrans can transmit final copies to the repositories specified in the MOA.

State-only Projects

Level of Documentation

Under CEQA, the lead agency (e.g., Caltrans for its projects and local governments for their projects) determines the type and level of mitigation documentation that would comply with CEQA Guidelines Section 16126.4(b). Project conditions and mitigation measures in state-only projects often will stipulate documentation of historic property/historical resource features prior to any action being taken. For Caltrans, most of the time the documentation will be equivalent to HDP standards.

The type and level of documentation will vary by project and will depend on the significance of the historical resource, the type of project, and the degree to which proposed changes, repairs, or alterations impact the historical resource. As is the case with federal undertakings, at a minimum the photo-documentation portion of the documentation needs to be completed prior to the implementation of the project. For demolition or complete destruction, this need is obvious, but it also is needed to establish a baseline for the project when there are repairs, alterations, or other impacts to the historical resources. Photo-documentation of the completed project also is needed to document that the project was completed in a manner consistent with the SOIS or that mitigation measures were carried out appropriately.

Historical resources that may require a higher level of documentation include NHLs, resources that are individually listed or eligible for listing in the National or California Registers at the national level of significance, and historical resources that are individually eligible or listed in the National or California Register at the state and local levels of significance.

For state-owned historical resources, see “[Documentation Processing Procedures under PRC 5024](#).”

Typically the property types that need documentation would include:

- Contributing properties in a historic district (unless unique in some way, or individually eligible)
- Properties for which a current and complete NRHP nomination is on file in the SHPO office and the National Register in Washington, DC, or a complete NRHP consensus determination of eligibility, California Historical Landmark (CHL) or

California Register of Historical Places is on file in the SHPO office, or for locally designated resources a complete nomination package is on file with the local government

- Structures to be moved, reconstructed or altered
- Minor elements of a complex (e.g. sheds in a maintenance station complex), unless architecturally distinctive
- Ruins or shells of structures, including individual structures with vacant interiors and no unusual structural, architectural, or historical interest
- Archaeological sites with few above-ground elements

Depending on the significance of the resource and the type of impact, higher-level documentation *may* include

- HDP level recordation
- Large-format photo-documentation
- Additional research if the existing research is sparse or outdated (e.g. older NRHP nomination forms)
- Copies of original plans
- Vintage photographs

If the documentation (National or California Register nomination or determination of eligibility, DPR 523 inventory forms, etc.) that led to the resource being considered a historical resource under CEQA is recent – within the past five years – or is complete, the existing documentation and current photographs may be sufficient. Lower level documentation may include

- Copies of the eligibility paperwork (National or California Register nomination or determination of eligibility, DPR 523 inventory forms, local designation applications or resolutions)
- Pre-project photographs and post-project photographs in either 35 mm or digital format

While large-format photographs printed to HDP [specifications](#) are the most archivally safe prints, it can be very expensive and is not necessarily required for lower levels of documentation on resources such as minor elements of a complex, ruins of shells or structures. In these instances, photographs printed on photographic paper from 35 mm or digital formats may be acceptable, but should meet the NPS National Register's 75-year permanence standard. If printing from digital photographs, remember that higher resolution digital files are needed. Refer to the National Park

Service “[National Register Photo Policy Factsheet](#)” Digital Photographs section for specifications on image resolution, appropriate papers and inks.

If large-format photography is not used, photographs may be in color or black and white, and may be either 35 mm prints or high-resolution color digital images, i.e., saved as uncompressed .TIF (Tagged Image File) format files at 8-bit (or larger) color format on CD-R media, and each image needs to be 1600x1200 pixels at 300 ppi (pixels per inch) or larger. Regardless of format, what is essential is that the images be as clear and sharp as possible and provide sufficient detail. Prints should be no smaller than 3½ by 5 inches, but for documentation purposes prints that are 4 by 5 inches or 8 by 10 inches are preferred.

Repositories

When Caltrans stipulates documentation as a mitigation measure in the Mitigation Plan section of the Historical Resources Compliance Report (HRCR), the HRCR also identifies repositories for the documentation. At a minimum, repositories should include the Caltrans Library and History Center in Headquarters (for Caltrans projects), and a local library or historical society. For historical resources at the national or state levels of significance, repositories also should include the California State Library. Check with these institutions to see whether they are willing to accept such documentation prior to including them in the mitigation measure.

Required Copies

The number of required copies of the documentation depends on the number of repositories stipulated in the HRCR.

- If the CSO or SHPO determined the type and level of documentation, as may be required to comply with the Public Resources Code (PRC) 5024 Memorandum of Understanding (5024 MOU³), the number can be as few as four copies for a Caltrans project (district, Caltrans Library and History Center in Headquarters, local library or historical group, and SHPO) or for a local agency project affecting a Caltrans-owned historical resource, five copies (local agency, district, Caltrans Library and History Center in Headquarters, local library or historical group, and SHPO).

³ *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, effective January 1, 2015.*

- If Caltrans PQS determined the type and level of documentation under CEQA only, the number can be as few as three copies for a Caltrans project (district, Caltrans Library and History Center in Headquarters, and local library or historical group).
- If the historical resource is at the national or state level of significance or a higher level of documentation is needed, additional copies would be needed for submittal to the California State Library and/or the Bancroft Library if these institutions are willing to accept the documentation.

While the file copy that Caltrans maintains should be archivally safe (to HDP specifications), other copies of the documentation do not need to be produced on archivally safe materials unless the intended repository requests it. To reduce the expense and storage needs of paper copies, check with the repositories to determine whether electronic versions of the documentation are acceptable.

Documentation Processing Procedures under the PRC 5024 MOU

State-owned Archaeological and non-structural historical resources not on the Master List

Under the PRC 5024 MOU for historical resources that are not on the Master List of Historical Resources (Master List⁴), the District sends the HRCR containing the mitigation documentation requirements with the notification memorandum to the CSO pursuant to 5024 MOU Stipulation X.B.1, X.B.2.a, and X.C.2.a [PRC 5024(f)].

State-owned Historical Resources on the Master List

Under the PRC 5024 MOU for historical resources that *are* on the Master List⁵, Caltrans is required to consult with SHPO on the effects and *SHPO makes the decision on the appropriate documentation*. The project HRCR should contain suggestions for the appropriate type and level of documentation, and the District sends the HRCR to CSO to review; then CSO sends the HRCR and a transmittal letter to SHPO pursuant to 5024 MOU Stipulations X.B. 2.c, X.C.2.b or X.E (PRC 5024.5).

⁴ The Master List does *not* include state-owned archaeological sites, tree rows, historic vegetation other non-structural resource that has been determined eligible for the NRHP or as a CHL, and all state-owned historical resources that Caltrans has assumed NRHP/CHL eligible for purposes of the project only. See [5024 MOU Stipulation IV.E](#).

⁵The Master List includes state-owned buildings, structures, objects, bridges, roadways, built landscape features that have been determined eligible for National Register or as a California Historical Landmark, *and* all state-owned historical resources that are listed in the National Register or registered as a California Historical Landmark regardless of resource type, e.g. non-structural archaeological sites, event sites, tree rows, historic natural features.

There may be occasions when the SHPO may determine that 5024 MOU mitigation documentation should go to the Library of Congress – even though the state-only project is not a federal undertaking – because the affected NRHP-listed/eligible or CHL-registered/eligible property is unique or under-represented in the Library of Congress collections. When this happens, the documentation is considered a donation and the NPS Pacific West Region office does not review it. Rather, at the SHPO's direction, Caltrans would work directly with the NPS HABS/HAER/HALS staff in Washington, DC.

- The EBC sends the HRCR transmittal memorandum to CSO requesting the CSO's concurrence on the findings in the HRCR (e.g., No Adverse Effect, Adverse Effect for state-owned historical resources not on the Master List, and No Adverse Effect with Standard Conditions for state-owned historical resources both on the Master List and not on the Master List), and requesting CSO's decision on the type and level of documentation for the affected resources.
- The EBC sends the HRCR transmittal memorandum to the CSO and upon CSO approval of the Finding of Adverse Effect to state-owned historical resources on the Master List, requesting the SHPO's decision on the type and level of documentation for the affected Caltrans-owned NRHP-listed/eligible or CHL-registered/eligible resources. CSO will forward the HRCR and the transmittal letter to SHPO.
- Upon the EBC's request, the BEPS Chief can coordinate the mitigation documentation requests.
- The HRCR and request to CSO and SHPO should include:
 - Project name, county, route and postmiles
 - Location of the historic property
 - Brief description of the historic property and why it is listed or eligible
 - Description of the project effects to the historic property
 - *Suggested* type and level of documentation

The SHPO staff will respond either concurring with Caltrans or recommending something different. Qualified Caltrans staff or consultants, as outlined in [Appropriately Qualified Staff](#), below, complete the agreed-upon documentation. Prior to sending draft and final documentation to CSO or SHPO, the work must be

peer reviewed and approved internally as described below under “[Peer Review and Approvals](#).”

After internal peer review and approval of the draft documentation, the EBC, or BEPS Chief at the EBC’s request, submits the draft reports to the CSO or SHPO for review and comment, depending on whether the resource is or is not on the Master List. The number of copies required usually is specified in the HRCR; if it is not, contact the CSO or SHPO to determine this information.

After CSO’ or SHPO’s comments have been addressed and after internal peer review and approval of the final documentation, the EBC, or BEPS Chief at the EBC’s request, submits the final report to CSO or SHPO, depending on whether the resource is or is not on the Master List, with the number of copies of reports, photos, indices and negatives that CSO or SHPO has specified. The final report may include an archivally safe copy of the report that stipulation was made. When CSO or SHPO has approved the final mitigation documentation, Caltrans can transmit final copies to the repositories specified in the HRCR.

For additional information or assistance, contact the BEPS Chief in Headquarters CSO.

Documentation Processing Procedures under CEQA

For built-environment historical resources, qualified Caltrans PQS who are certified at the Principal Architectural Historian level and have the requisite education and training as described in [Chapter 1](#) Section 1.3.3 will recommend to the EBC the level and type of documentation appropriate to the significance of the resource and the nature of the project’s impacts. The EBC then approves the type and level of documentation. Similarly, for archaeological resources, qualified Caltrans PQS who are certified at the Principal Investigator level will recommend to the EBC the level and type of documentation appropriate to the significance of the resource and the nature of the project’s impacts. The EBC then approves the type and level of documentation.

Alternately, the EBC may request the BEPS Chief in Headquarters CSO to determine what kind of documentation is needed for built-environment resources, and may request CSO the Prehistoric Archeology or Special Technologies Branch Chief or the Historical Archeology Branch Chief to determine what kind of documentation is needed for prehistoric and historical archeological resources, respectively. If

requesting one of the CSO Branch Chiefs to specify the documentation the EBC should forward a memo to the appropriate Chief including:

- Project name, county, route and postmiles
- Location of the historic property
- Brief description of the historic property and why it is listed or eligible
- Description of the project effects to the historic property
- Suggested type and level of documentation

Upon receipt, the CSO Branch Chief will respond within 30 calendar days with the type of documentation that is required. Qualified Caltrans staff or consultants, as outlined in [Appropriately Qualified Staff](#), below, complete the agreed-upon documentation. Prior approving the draft and final documentation, the work must be peer reviewed and approved internally as described below under “[Peer Review and Approvals](#).”

After peer reviewers comments have been addressed and after internal peer review and approval of the final documentation, the EBC, or appropriate CSO Branch Chief at the EBC’s request, approves the documentation. When EBC or CSO Branch Chief has approved the final mitigation documentation, Caltrans can transmit final copies to the repositories specified in the HRCR.

Appropriately Qualified Staff

Appropriately qualified staff or consultants prepare, peer review or review for approval HDP or other documentation as outlined below:

Photography: For HDP photographs, Caltrans photographers or consultants with experience or familiarity with these standards and guidelines conduct the large-format photography.

Document Preparation: As outlined in the Section 106 Programmatic Agreement ([106 PA](#)⁶) Attachment 1, and for state-owned historical resources the PRC 5024 Memorandum of Understanding ([5024 MOU](#)) Attachment 1, Caltrans Professionally Qualified Staff (PQS) certified at the Principal Architectural Historian level, or

⁶ *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 National Historic Preservation Act as it Pertains to the Administration of the Federal-Aid Highway Program in California, effective January 1, 2014.*

Architectural Historian level under the supervision of a Principal Architectural Historian, or qualified consultants who meet these qualifications prepare the documentation for built-environment historic properties. Caltrans PQS certified at the Principal Investigator level, or Lead Surveyor or Co-Principal Investigator level under the supervision of a Principal Investigator, or qualified consultants who meet these qualifications prepare the documentation for archaeological historic properties. For historic properties with both built-environment and archaeological components an interdisciplinary team of appropriately qualified staff or consultants under the supervision of a Principal Architectural Historian and/or Principal Investigator prepares the documentation.

Peer Review: Caltrans PQS certified at the Principal Architectural Historian or Principal Investigator level per the 106 PA or 5024 MOU, will peer review the documentation, depending on whether built-environment or archaeological historic properties are the subject of the documentation.

Approval: Caltrans PQS certified at the Principal Architectural Historian or Principal Investigator level, whichever is the appropriate discipline, will review the documentation for EBC approval, as described in [“Peer Review and Approvals.”](#)

Peer Review and Approvals

Peer Reviews

Peer review of draft documentation, which is advisory, is considered to be part of the report preparation process. This is separate from PQS approval of completed documents prior to submittal, which is required under the 106 PA and the 5024 MOU.

Draft HDP reports, or other similar documentation, must be peer reviewed by a Principal Architectural Historian or Principal Investigator, whichever is appropriate to the historic property or historical resource being documented. Qualified PQS in any district or in CSO can conduct peer reviews. CSO has qualified staff that are available to conduct peer reviews for districts upon receipt by the appropriate CSO Branch Chief of a request from an EBC. (See [Chapter 1](#) Section 1-3.2 for a description of CSO Branch Chiefs’ responsibilities.) CSO will complete such reviews within 15 working days or less of receipt of request. Preferably, the review would be completed in 10 working days or less.

Peer reviews are conducted to ensure that the documentation follows what is stipulated in the MOA, NPS, SHPO, or in the HRCR.

Approvals

Following peer review (whether by district or CSO PQS), and any necessary revisions based on comments received, the report preparer submits the final draft for approval. Final approvals will follow the procedures outlined in this exhibit, depending on whether the documentation was specified for [NPS](#), [SHPO's Section 106](#), [SHPO's PRC 5024](#), or [CEQA's](#) state-only specifications.

[Chapter 2](#), Section 2.5.5, further discusses Caltrans internal review guidelines; the process for resolving any disagreements or differences of opinion is outlined in Chapter 2, Section 2.11.

Confidential Documents

As a result of heightened security measures, as-built plans for many bridges, tunnels and highway structures are confidential documents and need to be treated as such.

Consult with the Division of Engineering Services to determine whether the as-builts or other information (e.g. sensitive photographic views, bridge reports, etc.) for a particular highway structure has been classified as confidential, *before* recommending that copies of historical or current information be included in any mitigation documentation. If it has been classified as confidential and an existing MOA or NPS previously stipulated that as-builts would be included in the mitigation documentation, the transmittal letter to NPS and/or SHPO should state that due to heightened security measures this information remains classified as confidential and Caltrans cannot include it in the mitigation documentation.

Copyright

Caltrans has automatic copyright of the materials it creates. Typically, the Caltrans copyright is placed on the front of the report (or in a conspicuous location). If it is anticipated that photographs, maps or other graphics may be reproduced separately from the mitigation or other documentation, they also will need the copyright signifying the date(s) they were created. It is possible that a document containing reproducible graphics might have two (or more) copyright dates.

Transfer/Release of Copyright: U.S. Department of the Interior

For mitigation documentation prepared for the Library of Congress, the NPS will request a transfer/release of copyright for documentation and will provide a

Copyright Release Form for Caltrans and/or other holders of copyrighted material to sign.

For Caltrans materials, the Caltrans Director ultimately has responsibility for signing contracts, and other legally binding commitments, such as releases of copyright, but can delegate that authority. The Director picks personnel to whom this authority is delegated by sending them a “rights of delegation” form. Depending on the District, division and office, it could be the District Director, plus a division chief, an office chief, or someone at a lower management level.

Whoever holds the “rights of delegation” form from the Director, at the appropriate district level, is authorized to sign the Copyright Release Form.

Once Caltrans transfers, assigns and releases its copyright ownership to the U.S. Department of Interior through the NPS, it essentially gives up that right. Therefore, copies of the HDP mitigation documentation that go to other agencies or repositories need to include a statement in the document to that effect:

The California Department of Transportation has transferred, and assigned the copyright of this document [*or photograph, graphic, etc.*] to the United States Department of the Interior.

If the HDP documentation contains copyrighted materials from other sources, Caltrans is responsible for obtaining those releases of copyrights as well.

Caltrans Copyright Retention

For all other documentation that is not sent to the Library of Congress, Caltrans retains its automatic copyright of the materials it creates. The date the material was created, or the photograph was taken, is the date of the copyright. This copyright needs to be on the front of the document (or in a conspicuous location) or directly below a photograph. For example:

Copyright © 2014 California Department of Transportation. All rights reserved.

It is possible a document with reproducible graphics, might have two (or more) copyright dates: one for the publication and others for the date(s) the photos, graphics were created. For instance a HABS report might have a copyright date of 2014, but photos contained therein that might be reproduced separately would have copyright dates of 1935, 2003, and 2005.

Sample NPS consultation letter – National Significance

FICTIONAL FEDERAL UNDERTAKING

[date]

15-Tar-118

P.M. 15.3/18.7 E-FIS. 1500000000-0

Elaine Jackson-Retondo, Ph.D.
Division of National Register Programs
National Park Service
Pacific West Regional Office
333 Bush Street, Suite 500
San Francisco, CA 94104-2828

Dear Dr. Jackson-Retondo:

Pursuant to an executed Memorandum of Agreement (MOA) for the State Route 118 Realignment project (copy attached), the California State Historic Preservation Officer has determined that mitigation documentation for the Spin & Marty Ranch needs to be included in the Library of Congress collections. The Department of Transportation (Caltrans), as assigned by the Federal Highway Administration, is requesting that your office specify the appropriate type and level of HABS documentation for this historic property for submittal to the Library of Congress.

On October 31, 1982, the Keeper of the National Register of Historic Places determined that the Spin & Marty Ranch is eligible for inclusion in the National Register at the national level of significance under Criteria A and C, because of the significant role it played in the development and expansion of the American entertainment industry, and as a rare survivor of early 20th century motion picture lots. The period of significance is 1910-1957.

The Spin & Marty Ranch is a five-acre property in an unincorporated section of Tara County consisting of the ranch house and associated acreage, including twelve other contributing structures, three non-contributing structures, a contributing reservoir, and a contributing tree-lined entry drive. In the early 1900s, the ACME Moving Pictures Company acquired 500 acres within the county's Tarzan Valley that included a 1890s ranch house. The other contributing movie-set structures were erected shortly after 1900. During its period of significance, the Spin & Marty Ranch was used for hundreds motion pictures and television series, particularly westerns, and was the first "on location" film location in the nation. Over the years it pioneered the use of pyrotechnics on large sets, including the Burning of Atlanta scene from "They Marched with Honor."

The proposed project will have an adverse effect on the historic property because it will require the removal of three contributing elements: the tree-lined drive, a c.1920s "Old West" saloon, and a c. 1915 livery stable, and relocation of the stagecoach rest to another site on the parcel.

Should you have any questions or comments, please call Bob Smith at (916) 555-7674, or provide them in writing to this office. Thank you for your time and attention.

Sincerely,

IMA BOUTORETIRE, Chief
District 15 Environmental Planning Branch Z

Sample NPS consultation letter – State Significance

FICTIONAL FEDERAL UNDERTAKING

[date]
15-TAR-23
P.M. 0.0/7.9, E-FIS. 1500000000-0

Elaine Jackson-Retondo, Ph.D.
Division of National Register Programs
National Park Service
Pacific West Regional Office
333 Bush Street, Suite 500
San Francisco, CA 94104-2828

Dear Dr. Jackson-Retondo:

Pursuant to an executed Memorandum of Agreement for the State Route 23 Widening project (copy attached), the California State Historic Preservation Officer has determined that mitigation documentation for the Babylon Circus Winter Campground needs to be included in the Library of Congress collections. The Department of Transportation (Caltrans), as assigned by the Federal Highway Administration, is requesting your office to specify the appropriate type and level of HABS documentation for this historic property.

The Babylon Circus Winter Compound was determined eligible through consensus determination on April 1, 2001 at the state level of significance under Criterion A, for its association with Southern California's entertainment industry, and for its association with both the state's motion picture and television industry and the Tara County Community College District's exotic animal training curriculum. The period of significance is 1935-1955.

The Babylon Circus Compound is a 25-acre property in the City of Fifty Oaks that consists of six bungalows (living quarters for circus performers), three barns (animal living quarters), two training buildings, three training rings, twelve exotic animal cages, 1.5 acres of fenced pasture, a pool, a main social hall/visitor center, and an oval entertainment arena with bleachers.

In 1932, the Babylon Circus acquired property within Tara County's Wuthering Heights Valley. The compound was constructed between 1935 and 1950. During its period of significance, the compound was used as living quarters for circus personnel, livestock, and exotic animals when they were on hiatus from their Spring through Fall traveling season. While on hiatus, the circus developed new acts and previewed them in the entertainment arena. Eventually, the training program evolved into the state's first wild and exotic animal training compound for the motion picture and television industry.

The proposed project will result in an adverse effect to this historic property because it will require the destruction of five acres of pasture, removal of two bungalows (both of which are owned by Caltrans) and a realigned entryway, which is in the Caltrans-right-of-way.

Should you have any questions or comments, please call Bob Smith at (916) 555-7674, or provide them in writing to this office. Thank you for your time and attention.

Sincerely,

IMA BOUTORETIRE, Chief
District 15 Environmental Planning Branch Z

Sample SHPO Documentation Determination Letter – State Significance

*FICTIONAL FEDERAL UNDERTAKING: STATE-OWNED HISTORIC PROPERTY
– DOCUMENTATION TO LIBRARY OF CONGRESS*

[date]
15-Tar-23
E-FIS. 0700000000-0

Ms. Julianne Polanco
State Historic Preservation Officer
Department of Parks & Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

Dear Ms. Polanco:

The California Department of Transportation (Caltrans) **is continuing consultation** with the State Historic Preservation Officer (SHPO) regarding the State Route 723 Tara Expressway Widening Project in Tara County. This consultation is undertaken in accordance with January 1, 2014 *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* (Section 106 PA). Caltrans is **concurrently complying with PRC 5024** pursuant to Stipulation III of the *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* (5024 MOU) and requesting that you accept the enclosed Finding of Adverse Effect (FAE) documentation and Memorandum of Agreement (MOA) stipulations as mitigation documentation for the portion of the historic property that is state-owned. Pursuant to a Finding of Adverse Effect and in accordance with the National Park Service-Pacific West Region HABS/HAER/HALS Program Overview and Standard Operating Procedures of June 4, 2007, Caltrans, as assigned by the Federal Highway Administration, is requesting your written determination whether mitigation documentation for the Babylon Circus Winter Compound will be submitted to the Library of Congress.

The Babylon Circus Winter Compound was determined eligible through consensus determination on April 1, 2001 at the state level of significance under Criterion A, for its association with Southern California's entertainment industry, and for its association with both the state's motion picture and television industry and the Tara County Community College District's exotic animal training curriculum. The period of significance is 1935-1955.

The Babylon Circus Compound is a 25-acre property in the City of Fifty Oaks that consists of six bungalows (living quarters for circus performers), three barns (animal living quarters), two training buildings, three training rings, twelve exotic animal cages, 1.5 acres of fenced pasture, a pool, a main social hall/visitor center, and an oval entertainment arena with bleachers.

Page 2

FICTIONAL UNDERTAKING

In 1932, the Babylon Circus acquired property within Tara County's Wuthering Heights Valley. The compound was constructed between 1935 and 1950. During its period of significance, the compound was used as living quarters for circus personnel, livestock, and exotic animals when they were on hiatus from their Spring through Fall traveling season. While on hiatus, the circus developed new acts and previewed them in the entertainment arena. Eventually, the training program evolved into the state's first wild and exotic animal training compound for the motion picture and television industry.

The proposed project will result in an adverse effect to this historic property because it will require the destruction of five acres of pasture, removal of two bungalows (both of which are owned by Caltrans) and a realigned entryway, which is in the Caltrans-right-of-way. Should SHPO determine that the mitigation documentation should be submitted to the Library of Congress, Caltrans will add a stipulation to the Memorandum of Agreement (MOA) requiring that Caltrans, as assigned by FHWA will request the National Park Service to determine the type and level of mitigation documentation, and a copy of your determination letter will be attached to the NPS request letter. Should SHPO determine that it is not necessary to submit the documentation to the Library of Congress, Caltrans will continue consulting with SHPO on the appropriate level and type of documentation to include in the MOA.

Should you have any questions or comments, please call Bob Smith at (916) 555-7674, or provide them in writing to this office. Thank you for your time and attention.

Sincerely,

IMA BOUTORETIRE, Chief
District 15 Environmental Planning Branch Z

STATE HISTORIC PRESERVATION OFFICER (SHPO) DOCUMENTATION DETERMINATION

_____ Submit mitigation documentation for the Babylon Circus Winter Compound to the Library of Congress and request the National Park Service Pacific West Region Office to specify the type and level of documentation.

_____ Do not submit mitigation documentation to the Library of Congress. Continue consultation with SHPO on the type and level of mitigation documentation for the Babylon Circus Winter Compound.

Julianne Polanco – SHPO

Date

Sample SHPO PRC 5024 Mitigation Documentation Letter

FICTIONAL STATE-ONLY PROJECT – SHPO DETERMINES DOCUMENTATION

[date]

14-SAW-984B1

P.M. 14.0, E-FIS. 1400000000-0

Ms. Julianne Polanco
State Historic Preservation Officer
Department of Parks & Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

Attention Jay Correia

Subject: District 1 Deep Forest Maintenance Station Improvements Project – Public Resources Code 5024.5 Compliance

Dear Ms. Polanco:

Pursuant to your April 1, 2008 determination that the Deep Forest Maintenance Station Improvements Project will have an Finding of Adverse Effect on the historic Deep Forest Maintenance Station Complex, 4798 State Route 984B, Big Trees in Sawyer County, the Department of Transportation (Caltrans) is continuing consultation under Stipulation X.C.2.b of the *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 (5024 MOU)* and requesting the State Historic Preservation Officer (SHPO) to determine the appropriate type and level of mitigation documentation for the state-owned Deep Forest Maintenance Station Complex, a property that is eligible for inclusion in the National Register of Historic Places and is on the Master List of Historical Resources.

On October 31, 2007, SHPO concurred that the Deep Forest Maintenance Station Complex meets the eligibility criteria for the National Register of Historic Places and included the property in the Master List of Historical Resources. The property is eligible the local level of significance under Criterion A for its association with road building resulting from the "Emergency Relief and Construction Act of 1932" New Deal and CCC construction and under Criterion C, for its Rustic architecture, designed to blend into its forest-like setting. The period of significance is 1937-1945. The four-acre complex on State Route 984B at Postmile 14, consists of the five operations buildings, three residential units, main garage, two wash racks, and fuel tanks, as well as several trailers and miscellaneous storage sheds and dispensers. Of the 5 operations buildings, 4 were constructed between 1937 and 1945 and all the residential units were built between 1937 and 1940. All are contributing structures, with the exception of the trailers, fuel tanks and three of the miscellaneous sheds.

The proposed project will result in an adverse effect to this historic property because it will require the demolition two of the residential units, both wash racks, alterations to the main garage and the construction of three wash racks and a large new garage.

Page 2

FICTIONAL STATE-ONLY PROJECT

Caltrans is suggesting that that the appropriate type of documentation should be digital photographs of the contributing elements to be removed and altered, and digital photographs of the original 1937 to 1945 plans of the complex. These will be prepared in accordance with current National Park Service digital photographic reproduction standards, as outlined in the "National Register of Historic Places and National Historic Landmarks Survey Photo Policy Expansion, March 2005." Photographs will include:

- Contextual views of the overall property depicting it in relation to its setting;
- Views of the various impacted contributing elements depicting their interrelationships;
- Views of structures to be removed or altered, including elevations, obliques, any appropriate exterior architectural details, and
- Any appropriate interior views that would depict significant structural systems, forms, or functions.

Mr. Max Photobrite, Caltrans Senior Photographer, will make photographs under the field direction of Bob Smith, Caltrans Principal Architectural Historian.

In addition, Caltrans suggests that the 2007 evaluation documentation (Historical Resources Report and accompanying DPR 523 Primary Records and Building Structure and Object forms) is sufficient written documentation and provides a complete historical context for the historic complex. This written documentation will accompany the photographs.

In addition to sending the documentation to you and including it in the Caltrans Headquarters Transportation Library and the Caltrans District 14 Office collections, suggested repositories include the Sawyer County Historical Society, the Northwest Information Center and the California State Library.

Should you have any questions or comments, please call Bob Smith at (916) 555-7674, or provide them in writing to this office. In the event we have not heard from you in 30 calendar days, we will assume your concurrence with this proposal. Thank you for your time and attention.

Sincerely,

PHILIP MARLOWE, Chief
District 14 Environmental Planning Branch ZZ