

Appendix I STATE HISTORIC PRESERVATION OFFICER (SHPO) COORDINATION

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**PROGRAMMATIC AGREEMENT BETWEEN THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION AND THE CALIFORNIA STATE
HISTORIC PRESERVATION OFFICER REGARDING
STATE ROUTE 138 NORTHWEST IMPROVEMENT PROJECT,
LOS ANGELES COUNTY, CALIFORNIA**

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, Caltrans proposes to implement the federally funded State Route 138 Northwest Improvement Project (Undertaking) on State Route 138 between the Interstate 5 interchange and State Route 14 interchange in Los Angeles County, which would upgrade the 2-lane rural highway to an expressway/limited access conventional highway, as described in Attachment A; and

WHEREAS, Caltrans has consulted with the 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 (NHPA), regarding the Undertakings' effect on historic properties, and will file a copy of this PA with the Advisory Council on Historic Preservation (ACHP) in accordance with Stipulation X.C.3 of the Section 106 PA; and

WHEREAS, the Undertaking's Area of Potential of Effects (APE) includes maximum existing or proposed right-of-way for all alternatives under consideration, easements (temporary and permanent), all improved properties subject to temporary or permanent changes in access (ingress and egress), and areas where visual or audible changes could occur outside the required right-of-way; and

WHEREAS, Caltrans has determined that the Undertaking will have an adverse effect on the Kinsey Mansion, a property determined eligible for the National Register of Historic Places

(National Register) under Criterion C (with concurrence from the California State Historic Preservation Officer), therefore, is a historic property as defined at 36 CFR Part 800.16(l)(1); and

WHEREAS, Caltrans in consultation with SHPO, has determined that the Undertaking's adverse effects cannot be avoided and that implementation of the treatments set forth in Stipulations II.-VII. of this Programmatic Agreement (PA) will satisfactorily take into account the Undertaking's adverse effects on the historic properties; and

WHEREAS, Caltrans' Extended Phase I Geoarchaeological study found that approximately 80–90% of the Undertaking's APE overlies sediments that have the potential to contain subsurface archaeological deposits in relatively shallow depths. However, subsurface explorations (e.g., trenching) of even a sample of the 36-mile long APE alignment is considered a major undertaking. Specifically, much of the APE occurs within an active roadway and portions are inaccessible due to paving of much of the ground surface, as well as no current access to a number of private properties. Therefore, Caltrans has determined that the Undertaking may have adverse effects on yet unidentified archaeological deposits; and

WHEREAS, Caltrans has chosen to prepare this PA pursuant to 36 CFR §800.14(b) to complete the final identification and evaluation of potential historic properties currently limited by restricted access as well as potentially discovered during implementation of the Undertaking (i.e., during archaeological monitoring of ground disturbing activities), and provide for the resolution of any adverse effects on historic properties within the Undertaking's APE subsequent to its approval of the Undertaking; and

WHEREAS, Caltrans has initiated consultation with the San Fernando Band of Mission Indians; the Fernandeño Tataviam Band of Mission Indians; the Tejon Indian Tribe; the San Manuel Band of Mission Indians; the Kern Valley Indian Community; the Kawaiisu Tribe; the Tubatulabals of Kern Valley; the Los Angeles Native American Commission; Delia Dominguez of the Kitanemuk and Tejon; Beverly Salazar Folkes; and Randy Guzman-Folkes, regarding the Undertaking and its potential adverse effect on historic properties; will continue to consult with them and afford them, should they so desire, the opportunity to actively participate in the implementation of the Undertaking itself and this PA; and

WHEREAS, Caltrans has invited the Fernandeño Tataviam Band of Mission Indians to sign this PA as a concurring party; and

WHEREAS, Caltrans has invited the San Manuel Band of Mission Indians to sign this PA as a concurring party. San Manuel Band of Mission Indians has declined to sign as a concurring party to this PA; however, Caltrans has consulted with the Tribe and will afford them, should they so desire, the opportunity to actively participate in the implementation of the Undertaking itself and this PA as a "Consulting Tribe."

WHEREAS, Caltrans District 7 has authority for the undertaking, has participated in the consultation process and has been extended "invited signatory" status in this PA; and

NOW, THEREFORE, Caltrans and the SHPO agree that upon Caltrans' decision to proceed with the Undertaking, Caltrans shall ensure that the Undertaking is 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 PA expires or is terminated.

STIPULATIONS

This PA outlines the phased identification approach required to complete Section 106 compliance for the proposed Undertaking. Caltrans, in coordination with District 7, shall ensure that the following stipulations are carried out upon right-of-way acquisition and prior to construction:

I. AREA OF POTENTIAL EFFECTS

- A. The APE for the Undertaking is depicted in Attachment B (Project Maps) to this PA. The APE is 36.8 miles long and covers a total area of 4,570.58 acres. The vertical APE includes the depth of grading and excavation needed to construct the new roadway and two bridge structures. An Area of Direct Impact (ADI) has been defined based on the grading plans based on the maximum extent of ground-disturbing activities.
- B. If modifications to the Undertaking subsequent to the execution of this PA necessitate the revision of the APE, Caltrans will consult for a period of 15 days with signatories, invited signatories, and concurring parties (collectively, the PA parties), as well as any Tribe (Consulting Tribe) who has expressed an interest in consulting on this project, to facilitate mutual agreement on the subject revisions. If Caltrans and the PA parties cannot reach such agreement, then the parties to this PA shall resolve the dispute in accordance with Stipulation VIII.C below. If Caltrans and the PA parties reach mutual agreement on the proposed revisions, then Caltrans will submit a final map of the revisions to the PA parties, consistent with the requirements of Stipulation VIII.A and Attachment 3 of the Section 106 PA no later than 30 days following such agreement. Any additional required identification and evaluation efforts necessitated due to changes to the APE will be undertaken consistent with the requirements of Stipulation VIII.B and VIII.C of the Section 106 PA. In this manner, the APE may be amended without amending the PA.

II. IDENTIFICATION, EVALUATION, AND TREATMENT OF HISTORIC PROPERTIES

Identification and evaluation of historic properties completed for approximately 76% of the APE have resulted in the recordation of six (6) historical and ten (10) prehistoric archaeological sites, all but three (3) of which have been determined not eligible for the National Register. One lithic reduction site (P19-004620) and a portion of a second (P19-003723) are to be treated as eligible for the purposes of this undertaking only. A temporary campsite (P19-004640) has been determined eligible for the NRHP under Criterion D. The eligible portions of these sites will be treated as Environmentally Sensitive Areas for the duration of project construction so as to avoid any impacts to these resources.

Approximately 24% of the APE remains inaccessible. As it is anticipated that the Undertaking

shall be constructed in phases, all measures outlined in Stipulation II shall be completed as access is gained for each construction phase.

- A. Caltrans shall develop a Historic Properties Treatment Plan (HPTP) in consultation with the PA parties and Consulting Tribe to plan for additional fieldwork, archaeological and Tribal monitoring of ground disturbing activities during Project construction, archaeological evaluation of any sites identified as a result of the additional fieldwork and monitoring, and resolution of adverse effects to historic properties. The HPTP shall present a high level/general archaeological research design, prehistoric and historic research themes and questions, resource significance thresholds required for evaluation, ESA establishment and maintenance guidelines, archaeological monitoring guidelines, and late discovery and inadvertent effects procedures. Specifically, the HPTP will address the following:
1. Completion of intensive-level pedestrian survey of 24% of the APE that was inaccessible at the time of initial identification due either to a lack of private property owners' response to, or denial of, right of entry permits. The intensive-level pedestrian survey will follow the standards and protocols set forth in the Caltrans Standard *Environmental Reference*, Volume 2 (SER).
 2. An archaeological monitoring plan that will provide background on the archaeological sensitivity of the APE and rationale for monitoring, Native American Monitor participation, and monitoring protocols.
 3. Procedures for archaeological evaluations of any newly identified sites, including thresholds for determining eligibility and archaeological field procedures.
 4. Consultation protocols for resolution of adverse effects for eligible properties, particularly those properties found eligible under Criteria A, B, and C.
 5. Data Recovery Plan for properties also found eligible under Criterion D, including archaeological field procedures.
 6. Native American participation and the treatment of identified human remains.
 7. Procedures for cataloguing and laboratory analysis of cultural materials recovered as part of archaeological evaluations and/or data recovery excavations.
 8. Curation management procedures, which may include identification of a curation facility where recovered materials and records may be curated in perpetuity in accordance with California Resources Agency "Guidelines for the Curation of Archaeological Collections" (1993). Final disposal of artifact collections will be determined through consultation with PA parties and Consulting Tribe.
 9. Inclusion of an Environmentally Sensitive Area (ESA) Action Plan that provides measures for the avoidance and protection of historic properties as well as measures in the event of ESA modification, which will include consultation with the PA parties.
 10. Protocols for unanticipated discoveries, including discoveries during

archaeological monitoring and inadvertent damage to known or unknown resources. The protocols will also detail the notification process for the PA parties and Consulting Tribe.

11. Reporting procedures documenting the methods and results of all archaeological fieldwork (including monitoring) and laboratory analyses.
12. Preparation of a Public Interpretation program should information obtained through the HPTP is determined to be of interest to the general public. Caltrans will welcome any participation from the PA parties and Consulting Tribe in this effort.

- B. Caltrans shall submit the HPTP to the PA parties and Consulting Tribe for review and comments. The PA parties shall respond within 45 days of the receipt of the submission. If the PA parties do not respond within 45 days after receipt, Caltrans may either extend the review period in consultation with the parties or notify the parties of its intent to proceed to the next step prescribed in Stipulation II.A.
- C. The HPTP set forth hereunder may be amended through consultation among the PA parties and Consulting Tribe without amending the PA proper. Consultation on the HPTP amendments will be no longer than 30 days in duration. Disputes regarding amendments proposed hereunder shall be addressed in accordance with Stipulation VIII.C of this PA. If the dispute is resolved within the 30-day time frame, the PA 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 PA parties shall proceed in accordance with the terms of that decision.
- D. 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 prior to the completion of the HPTP.

III. MEASURES AND COMMITMENTS

- A. As agreed upon as a condition to the Finding of Effects document for the Undertaking, Caltrans shall develop a research design for the prehistory of the Antelope Valley that provides an archaeological context as well as prehistoric and historic-era research themes and questions appropriate to known site types within the valley proper. The research design will serve as guidance for future archaeological investigations in the region. The research design shall be developed prior to implementation of the undertaking. This document shall be submitted to the PA parties and Consulting Tribe for review and comment. The PA parties shall respond within 30 days of the receipt of the submission. If the PA parties do not respond within 30 days after receipt, Caltrans may either extend the review period in consultation with the parties or proceed in finalizing and adopting the research design.
- B. An Environmentally Sensitive Area (ESA) Action Plan has been prepared for three

sites, P19-004620, P19-003723, and P19-004640, located within the APE but that will not be affected by the undertaking. The ESA Action Plan, included as Attachment C to this PA, includes measures to protect and avoid the sites, and will be updated as needed during implementation of the Undertaking. If Caltrans determines that revisions to the current ESAs are necessary, which would not adversely affect a historic property, Caltrans shall inform the PA parties and Consulting Tribe of the revisions and afford them a 15-day opportunity to object. If Caltrans determines that revisions to the current ESAs would adversely affect a historic property that was previously determined to have no adverse effect, Caltrans shall reinitiate consultation with the PA parties and Consulting Tribe regarding additional adverse effects to historic properties. If there are no objections, Caltrans shall move forward with the revisions to the ESA Action plan, which will then be provided to the PA parties.

- C. Caltrans will provide project design plans to the SHPO for review and comment for the retaining wall, fencing, and relocated driveway associated with the Kinsey Mansion to ensure conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. The SHPO shall have thirty (30) days to review and comment.
- D. Caltrans will create electronic content for a smartphone traveler application that describes and interprets the historic and cultural properties along the State Route 138 between Interstate 5 and State Route 14 including the Kinsey Mansion. The content will include historical narrative information, as well as historical photographs, suggested driving tours, and other documentation. This application will be available free to the public through the Caltrans website and smartphone application stores prior to the termination of this agreement.

IV. REPORTING REQUIREMENTS AND RELATED REVIEWS

- A. Within 24 months after Caltrans has determined that all relevant fieldwork required by Stipulation II has been completed, Caltrans will ensure preparation, and subsequent concurrent distribution to the other PA parties and Consulting Tribe, for review and comment, the draft technical report(s) that documents the results of the final identification and evaluation of historic properties efforts. The other PA parties will be afforded 30 days following receipt of the draft technical report(s) to submit any written comments to Caltrans. Failure of these parties to respond within this time frame shall not preclude Caltrans from authorizing revisions to the draft technical report(s), as Caltrans may deem appropriate. Caltrans will provide the other PA parties with written documentation indicating whether and how the draft technical report(s) will be modified in accordance with any comments received from the other PA parties. Unless any PA party objects to this documentation in writing to Caltrans within 30 days following receipt, Caltrans may modify the draft technical report(s), as Caltrans may deem appropriate. Thereafter, Caltrans may issue the technical report(s) in final form and distribute the document(s) in accordance with paragraph B of this stipulation.

- B. Copies of the final technical report(s) documenting the results of the final identification and evaluation of historic properties efforts will be distributed by Caltrans to the other PA parties and to the South Central Coastal Information Center of the California Historic Resources Information System.

V. NATIVE AMERICAN CONSULTATION

Caltrans has consulted with Native American groups and individuals (listed in Attachment D of this PA) identified by the Native American Heritage Commission regarding the proposed Undertaking and its effects on historic properties, will continue to consult with them, and will afford them, should they so desire, the opportunity to participate in the implementation of the PA and of the Undertaking. As a result of this consultation, the Fernandeño Tataviam Band of Mission Indians has been invited to concur in this PA. Should any of the remaining parties consulted desire, individually, to participate as a PA party as herein set forth, Caltrans will make an effort to reach a consensus with each such party regarding the manner in which they may participate in the implementation of this PA and the Undertaking, and regarding any time frames or other matters that may govern the nature, scope, and frequency of such participation.

VI. 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). 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.

VII. DISCOVERIES AND UNANTICIPATED EFFECTS

If Caltrans determines, after construction of the Undertaking has commenced, that 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 the Historic Properties Treatment Plan. Caltrans at its discretion may hereunder assume any discovered property to be eligible for the National Register in accordance with 36 CFR § 800.13(c).

VIII. ADMINISTRATIVE PROVISIONS

A. STANDARDS

- 1. **Definitions.** The definitions provided at 36 CFR § 800.16 are applicable throughout this PA.

2. Parties to this agreement are defined as follows:
 - a. **Signatory parties** have the sole authority to execute, amend, or terminate the PA.
 - b. **Concurring parties** signing the PA do so to acknowledge their agreement or concurrence with the PA, but have no legal authority under the PA to terminate or amend the PA. Concurring with the terms of the PA does not constitute their agreement with the Undertaking.
 - c. **Consulting Tribe** is defined as any federally or non-federally recognized Indian tribe that wishes to participate in consultation regarding the undertaking, regardless of Concurring Party status.
3. **Professional Qualifications.** District shall ensure that the actions and products required by Stipulations II through V of this PA shall be carried out by or under the direct supervision of persons meeting the *Secretary of the Interior's Professional Qualification Standards for Archeology and Historic Preservation (36 CFR Part 61) (PQS)* in the relevant field of study.
4. **Documentation Standards.** Written documentation of activities prescribed by Stipulations II, III, IV, and V of this PA shall conform to the *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.
5. **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 PA are curated in accordance with the California Office of Historic Preservation's "Guidance for the Curation of Archaeological Collections" (i.e., 1993 State Curation Guidelines).

B. CONFIDENTIALITY

The PA parties acknowledge that historic properties covered by this PA 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 PA are consistent with said sections.

C. RESOLVING OBJECTIONS

1. Should any party to this PA object at any time in writing to the manner in which the terms of this PA are implemented, to any action carried out or proposed with respect to implementation of the PA (other than the Undertaking itself), or to any

documentation prepared in accordance with and subject to the terms of this PA, Caltrans shall immediately notify the other PA 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 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's responsibility to carry out all actions under this PA that are not the subjects of the objection shall remain unchanged.
6. At any time during implementation of the measures stipulated in this PA, should a member of the public raise an objection in writing pertaining to such implementation to any signatory party to this PA, 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 PA, and the ACHP, if the ACHP has commented, and any parties that have objected pursuant to section C.3 and C.4 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 PA may propose that this PA 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 PA, any signatory may terminate the agreement in accordance with Stipulation VIII.F below.
2. Attachments to this PA may be amended through consultation as prescribed in Stipulation I or Stipulation II, as appropriate, without amending the PA proper.

E. ANNUAL REPORTING

In addition to the documentation and reporting described in Stipulation IV, the District shall provide the parties to this agreement and Consulting Tribe an annual update. Such update shall include any scheduling changes proposed, any problems encountered, failures to adopt proposed mitigation measures, and any disputes and objections received in the District's efforts to carry out the terms of this PA. The update will be due no later than December 31 of each year, beginning December 31, 2017 and continuing annually thereafter throughout the duration of this PA. If PA parties deem it necessary, a meeting will be scheduled in lieu of an update and Consulting Tribe will be invited to attend.

F. TERMINATION

1. If this PA is not amended as provided for in Stipulation VII.E, or if either signatory proposes termination of this PA for other reasons, the signatory party proposing termination shall, in writing, notify the other PA 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 PA by promptly notifying the other PA parties in writing. Termination hereunder shall render this PA without further force or effect.
4. If this PA is terminated hereunder, and if Caltrans determines that the Undertaking will nonetheless proceed, then Caltrans shall comply with the requirements of the Section 106 PA, or request the comments of the ACHP pursuant to 36 CFR 800.3-800.6.

G. DURATION OF THE PA

The duration of this PA shall be no more than five (5) years following the date of execution by the SHPO and Caltrans, or upon completion of the Undertaking, whichever comes first. If the terms are not satisfactorily fulfilled at that time, Caltrans shall consult with the signatories and concurring parties, as well as Consulting Tribe, to extend it or to reconsider its terms. Reconsideration may include continuation of the PA as originally executed, amendment of the PA, or termination. In the event of termination, Caltrans will comply with Stipulations III through XI of the Section 106 PA if it determines that the Undertaking will proceed notwithstanding termination of this PA.

H. EFFECTIVE DATE

This PA will take effect on the date that it has been executed by Caltrans and the SHPO.

EXECUTION of this PA by Caltrans and the SHPO, its filing with the ACHP in accordance with 36CFR § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR §800.6(c), that this PA is an agreement with the ACHP for purposes of Section 110(1) 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.

**PROGRAMMATIC AGREEMENT BETWEEN THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION AND THE CALIFORNIA STATE
HISTORIC PRESERVATION OFFICER REGARDING
STATE ROUTE 138 NORTHWEST IMPROVEMENT PROJECT,
LOS ANGELES COUNTY, CALIFORNIA**

SIGNATORY PARTIES:

California Department of Transportation


By 

Phil Stolarski
Chief, Division of Environmental Analysis

6/23/17
Date

California Office of Historic Preservation

By 

 Julianne Polanco
State Historic Preservation Officer

6/23/17
Date

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STATE ROUTE 138 NORTHWEST IMPROVEMENT PROJECT,
LOS ANGELES COUNTY, CALIFORNIA**

INVITED SIGNATORY:

California Department of Transportation

By Carrie Bowen

Carrie Bowen, District Director
District 7, Los Angeles

6-26-17

Date

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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April 11, 2017

VIA EMAIL

In reply refer to: FHWA_2015_1230_001

Alex Bevk Neeb
Section 106 Coordinator
Caltrans Division of Environmental Analysis
1120 N Street, PO Box 942873, MS-27
Sacramento, CA 94273-0001

Subject: Finding of Adverse Effect for the Proposed SR-138 Northwest Corridor
Improvement Project, Antelope Valley, Los Angeles County, CA

Dear Ms. Bevk Neeb:

Thank you for consulting with me about the subject undertaking 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 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 (PA)*.

Caltrans, in cooperation with the Los Angeles County Metropolitan Transportation Authority, proposes to improve approximately 36.8 miles of State Route 138 (SR-138) between the Interstate 5 (I-5) interchange and the State Route 14 (SR-14) interchange. The project includes widening SR-138 and providing operational and safety improvements. The project corridor spans east to west approximately 36.8 miles in the northwest portion of Los Angeles County, just south of the Kern County boundary. A full project description is located on pages 2 to 3 of the Finding of Adverse Effect.

Caltrans found nine historic properties located within the area of potential effect for the project.

Caltrans has found that the proposed project will have an adverse effect on the Kinsey Mansion. The Preferred Alternative proposes to construct a new alignment for SR-138, which will route through a portion of the Kinsey Mansion property. The new route will cut directly through the property, destroying the white picket fence and large half-circle private driveway, as well as forcing the removal or relocation of iconic lawn ornamentation. The project will destroy many of the mansion's character-defining features, including the expansive lawn and ornamentation, which contribute to the mansion's fashionable neoclassical eclectic design style. Construction of SR-138 will destroy or remove all of

Ms. Bevk Neeb
April 11, 2017
Page 2 of 2

FHWA_2015_1230_001

the lawn, picket fence, and lawn ornamentation, as well as most of the driveway (an area of 4.4 acres). The house and the portion of the driveway in front of the house will remain on 2.5 acres. Construction of SR-138 will result in removal of 64 percent of the site area. The new SR-138 alignment is six lanes wide. It will approach within 70 feet of the Kinsey Mansion's front porch. This will alter the setting of the mansion overlooking Quail Lake because of the introduction of the larger highway within the original mansion property. The larger highway is obtrusive and diminishes the integrity of setting of the mansion. Therefore, the Preferred Alternative will result in an adverse effect on the Kinsey Mansion.

Caltrans has also determined that the project will have no adverse effect on the following properties:

- P-19-004640
- P-19-004620
- P-19-003723
- Bell Telephone and Telegraph Switching Station
- P-19-002105 (Los Angeles Aqueduct)
- Big Creek Hydroelectric System East-West Transmission Line
- P-19-186879-a (Antelope-Magunden #2 Transmission Line)
- LADWP Transmission Line

Based on my review of the submitted documentation, the SHPO has no objection to the above findings. I look forward to further discussions regarding mitigation as we continue consultation regarding resolution of adverse effects.

Thank you for considering historic properties during project planning. If you have any questions, please contact Natalie Lindquist of my staff at (916) 445-7014 with e-mail at natalie.lindquist@parks.ca.gov or Alicia Perez at (916) 445-7020 with e-mail at alicia.perez@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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February 26, 2016

Reply in Reference To: FHWA_2015_1230_001

Kelly Ewing-Toledo
Heritage Resource Coordinator
Department of Transportation
District 7, Division of Environmental Planning
100 South Main Street, Suite 100
Los Angeles, CA 90012-3606

Re: Review of the Determination of Eligibility for the SR-138 Northwest Corridor Improvement Project, Los Angeles County, California

Dear Ms. Ewing-Toledo:

Thank you for your December 28, 2015 letter in which the California Department of Transportation (Caltrans) is initiating SHPO consultation on the above referenced undertaking in accordance with the January 2014 *First Amended Programmatic Agreement (PA) among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Office, 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*. In accordance with Stipulation VIII.C.6 of the PA, Caltrans is requesting SHPO concurrence on their determinations of eligibility. The following supporting documentation was submitted with your letter:

- Volume 1 and 2: *Historic Property Survey Report (HPSR)*

The SR-138 Northwest Corridor Improvement Project is being undertaken by the Los Angeles County Metropolitan Transportation Authority and Caltrans, District 7. The project involves improving and widening a 36.35 mile segment of SR-138 between I-5 and SR-14 in the Antelope Valley of northern Los Angeles County. The existing facility is a 2-lane highway and the proposed project would widen the road to a 6-lane freeway with additional operational and safety improvements. Identification efforts for the SR-138 Northwest Corridor Improvement Project are detailed on pages 5 through 7 of the enclosed HPSR. Efforts resulted in the identification of 30 cultural resources within the area of potential effects (APE). In accordance with Stipulation VIII.C of the PA, Caltrans evaluated the 30 cultural resources' eligibility for listing on the National Register of Historic Places (NRHP) and their evaluations are documented in Attachments J and K of Volume 2.

Previous Determinations of Eligibility

The following three resources within the APE have been previously determined eligible for listing on the NRHP and those determinations are still valid:

Address/Location	Community	OHP Status Code/Eligibility Status
P-19-186876-a (Antelope-	Antelope Valley	2D2 (Previously evaluated,

Magunden #2 Transmission Line)		Eligible, Criteria A and C)
Big Creek Hydroelectric System East-West Transmission Line	Quail Lake	2D2 (Previously evaluated, Eligible, Criteria A, B and C)
P-19-2105 (LA Aqueduct)	Antelope Valley	2 (Previously evaluated, Eligible, Criteria A, B and C)

Resources Determined Ineligible

Caltrans evaluated and determined that 26 resources (14 built environment resources, five historic-era archaeological resources, and seven prehistoric archaeological resources) within the APE are not eligible for inclusion in the NRHP. Pursuant to Stipulation VIII.C.6 of the PA, Caltrans is requesting SHPO concurrence with the following NRHP eligibility determinations:

- The following built environment resources are not eligible for the National Register of Historic Places (NRHP):
 - 8320 West Avenue D, Antelope Acres
 - 8622 West Avenue D, Antelope Acres
 - 8656 West Avenue D, Antelope Acres
 - 18140 West Avenue D, Antelope Acres
 - 18348 West Avenue D, Antelope Acres
 - 24825 West Avenue D, Neenach
 - 49155 Tree Points Road
 - Stage Coach Warehouse – approximately 0.5 mile west of intersection of 265th Street W and SR-138 – no address listed, Neenach
 - 28091 West Avenue C6, Neenach
 - 29853 West Avenue C6, Neenach
 - General Petroleum Pumping Station – 33700 West Lancaster Boulevard, Quail Lake Area
 - Old Ridge Route segment #1
 - Old Ridge Route segment #2

Based on my review of the submitted documentation, I concur.

- P-19-4225, a historic-era agricultural archaeological site is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-190643/P-19-4414, a historic-era east-west trending highway corridor designated by the state as SR-138 is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004616/CA-LAN-4616/H (SR-023), a historic-era possible homestead site consisting of an historic-era refuse deposit and additional historic-era debris is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004638/CA-LAN-4638H (SR-158), a historic-era occupation site is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004626 (SR-071), a historic-era linear road feature (West Avenue C) with associated historic-era refuse deposits and various modern debris is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004625/CA-LAN-4625H (SR-070), the remains of the WWII-era Victory Field aircraft landing field used by the Polaris Flight Academy during military training operations is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.

- CA-LAN-3723 (P-19-003723), a large low density lithic scatter with sparse historic-era material is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004629/CA-LAN-4629 (SR-083), a sparse prehistoric lithic scatter is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004630/CA-LAN-4630 (SR-089), a sparse prehistoric lithic scatter is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004631/CA-LAN-4631 (SR-090), a sparse prehistoric lithic scatter is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004632/CA-LAN-4632 (SR-101), a sparse prehistoric lithic scatter with two distinct activity areas and lithic concentration is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.
- P-19-004633/CA-LAN-4633 (SR-102), a sparse prehistoric lithic scatter is ineligible for listing on the NRHP under Criteria A, B, C, and D. I concur.

Caltrans has evaluated and determined the following prehistoric archaeological sites are ineligible for listing on the NRHP under Criteria A, B, C, and D:

- P-19-004620/CA-LAN-4620 (SR-049), a dense prehistoric lithic scatter that contained 235 artifacts on the surface;
- P-19-004634/CA-LAN-4634 (SR-112), a sparse (14 artifacts recorded on surface) prehistoric lithic scatter.

The SHPO cannot provide meaningful comment on Caltrans' determination of eligibility of P-19-004620/CA-LAN-4620 (SR-049) and P-19-004634/CA-LAN-4634 (SR-112) because the archaeological field methods employed during this evaluation have completely exhausted the research potential of the surface artifacts from these sites. The evaluation discussion for both of these resources states "all of the visible artifacts on the surface have been collected. Although the surface artifacts have the potential to address several of the research themes, the research potential of the surface artifacts has been exhausted because no material remains on the surface with which to address research questions" (Mason and Blumel 2015: 47, 87). If these resources had been determined eligible for listing on the NRHP under Criterion D, the complete removal of the resources' surficial data would have been an adverse effect on the resources' ability to convey their significance. As a result, the SHPO cannot provide meaningful comment on Caltrans' determination of eligibility of P-19-004620/CA-LAN-4620 (SR-049) and P-19-004634/CA-LAN-4634 (SR-112).

Resources Determined Eligible

Caltrans evaluated and determined that four resources (two build resources and two prehistoric archaeological resources) within the APE are eligible for inclusion in the NRHP. Pursuant to Stipulation VIII.C.6 of the PA, Caltrans is requesting SHPO concurrence on these NRHP eligibility determinations.

Caltrans has determined that the Bell Telephone and Telegraph Switching Station (Switching Station), located at 33700 W Lancaster Boulevard, Tejon Pass/Quail Lake Area is eligible for the NHRP under Criteria A and C at the local level of significance. Under Criterion A the Switching Station is associated with significant developments of communication in the developing regions of Southern California. Under Criterion C Features 1 through 6 on the property are excellent examples of Spanish Revival architecture. The period of significance is 1927-1934. I concur.

The Kinsey Mansion, located at 34860 Lancaster Road, Tejon Pass/Quail Lake Area is also eligible for the NRHP under Criterion C at the local level of significance. The Kinsey Mansion is an excellent example of Neoclassical architecture that developed in the early 20th century. The period of significance is 1946. I concur.

Caltrans has evaluated and determined that P-19-004621/CA-LAN-4621 (SR-051) and P-19-004640/CA-LAN-4640 (SRAS-003) are eligible for listing on the NRHP under Criteria D. The SHPO is unable to concur with Caltrans' determinations of eligibility because the eligibility discussion fails to demonstrate how the subsurface data answers the research questions and data requirements presented in the established research design. Furthermore, it is unclear why all surface data was collected from both sites and their ability to answer several of the research themes was not addressed in the sites' overall determination of eligibility. Please note that the National Register Bulletin (NPS) 15 How to Apply the National Register Criteria for Evaluation explains that "a totally collected surface site ... is not eligible since the physical remains capable of yielding important information no longer exist at the site" (NPS 23: 1997). That said, a clear argument is not presented that explains how the complete surface removal of these sites has not adversely affected the sites' overall significance, and how they continue to contain subsurface data capable of addressing several of the research themes.

Resources Assumed Eligible

In accordance with Stipulation VIII.C.4 of the PA, Caltrans is assuming NRHP eligibility of the LADWP Transmission Line for the purposes of this undertaking only.

In accordance with Stipulation XII.B., Caltrans District has sought and gained approval from the DEA/CSO to phase the continued identification and evaluation for the remaining un-surveyed areas within the APE.

General SHPO Comments on Efforts to Identify and Evaluate Historic Properties

Overall, it is unclear as to why the archaeological field methods (Mason and Blumel 2015) employed in the evaluation of all of the resources within the APE included the collection of all surface artifacts from the sites. An evaluation of a resource's ability or potential ability to yield significant data should of course include an analysis of both surface and subsurface deposits, but archaeological field methods should be employed to collect and excavate an adequate amount of data to evaluate a resource under Criterion D rather than completely removing all of the resource's data potential. The research design was not used to determine the data potential of the collected surface deposits and the evaluation of these resources solely focused on the subsurface deposits' data potential.

In correspondence with our office (Kelly Ewing-Toledo, personal communication, February 11, 2016) it was explained that at the time the archaeological sites were tested the ADI boundary had yet to be defined. It was not until later that defined resources, such as LAN-4621 and LAN-4640 were identified as being outside of the ADI. At this time, it remains unclear as to why the resources were tested prior to the ADI being defined. As indicated in the Caltrans *Volume 2 Standard Environmental Reference* (SER) (2014), the Extended Phase I (XPI) study is an extension of the identification phase that can be implemented to determine whether a portion of a site extends horizontally and/or vertically into the direct APE. The SER goes on to explain that a 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). This will avoid unnecessary disturbances to these areas as a result of the testing effort itself. Even in cases where project limits or direct

effects have not been precisely defined; testing efforts should be weighted heavily towards the portions of the site within the direct APE.

It does not appear that the testing methods employed to identify historic properties focused on portions of the sites that would likely be within the direct APE. Instead, it appears that the complete surface collection and XPI and Phase II testing of all resources within the APE may have unnecessarily disturbed all of the sites within the APE. Upon final delineation of the ADI, it has now been concluded that resources are located outside of the ADI and therefore the complete surface collection and testing of these resources was unnecessary. Please note that Attachment 3 of the PA states that

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.

The archaeological methods should have been developed contingent upon the effects from the undertaking. It appears that the scope of the archaeological field methods have gone well beyond the reasonable "foreseeable effects" of this undertaking.

In an effort to move forward, please provide the SHPO with an explanation as to why archaeological field methods were employed that collected all surface data from all of the resources within the APE and their ability to answer several of the research themes was not addressed in the sites' overall determination of eligibility. Please also provide an eligibility discussion of CA-LAN-4621 and CA-LAN-4640 that clearly argues how the subsurface data answers the research questions and data requirements presented in the established research design. Please include in this discussion an explanation as to how the complete surface removal of these sites has not adversely affected the sites' overall significance.

Thank you for seeking my comments and considering historic properties as part of your undertaking. Please be advised that under certain circumstances, such as post-review discoveries or a change in the undertaking description, you may have future responsibilities for this undertaking under the PA and 36 CFR Part 800. If you require further information, please contact Alicia Perez of my staff at 916-445-7020 or at Alicia.Perez@parks.ca.gov or Natalie Lindquist of my staff at 916-445-7014 or at Natalie.Lindquist@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer