



Preserving America's Heritage

EI-20460

Rec'd

5/15/14

May 13, 2014

Stephanie B. Perez, PG
Office of Railroad Policy and Development
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

REF: *Proposed Fresno to Bakersfield Section of the California High-Speed Train System
Fresno, Kings, Tulare, and Kern Counties, California*

Dear Ms. Perez:

Enclosed is your copy of the fully executed Memorandum of Agreement for the referenced undertaking. By carrying out the terms of the agreement, the Federal Railroad Administration will fulfill its responsibilities under Section 106 of the National Historic Preservation Act and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), for this undertaking. The original agreement will remain on file at our office.

If we may be of further assistance as the agreement is implemented, please contact Kelly Fanizzo, at (202) 606-8507, or via e-mail at kfanizzo@achp.gov.

Sincerely,

Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, License, and Assistance Section
Office of Federal Agency Programs

Enclosure

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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MEMORANDUM OF AGREEMENT AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY,
THE SURFACE TRANSPORTATION BOARD,
THE U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER, AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

**REGARDING THE FRESNO TO BAKERSFIELD SECTION OF THE CALIFORNIA
HIGH-SPEED TRAIN SYSTEM IN FRESNO, KINGS, TULARE, AND KERN COUNTIES**

WHEREAS the California High-Speed Rail Authority (Authority) proposes to construct a high-speed train (HST) system in California and the Federal Railroad Administration (FRA) and the Authority have completed a Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Fresno to Bakersfield Section of the HST Project (Undertaking); and

WHEREAS a Programmatic Agreement (PA) among FRA, the Advisory Council on Historic Preservation (ACHP), the California State Historic Preservation Officer (SHPO), and the Authority regarding compliance with Section 106 of the National Historic Preservation Act (16 United States Code [U.S.C.] § 470f) (Section 106) and in accordance with its implementing regulations (36 Code of Federal Regulations [CFR] Part 800), as it pertains to the California HST Project, was executed on June 15, 2011 (Attachment 1); and

WHEREAS the Undertaking consists of constructing a new rail alignment, stations, maintenance facilities, electrical substations, and other appurtenant facilities between Fresno and Bakersfield; and

WHEREAS on April 18, 2013, the Surface Transportation Board (STB) concluded that it has jurisdiction over the proposed California HST System, which includes the Undertaking; and

WHEREAS the proposed Undertaking will affect waters of the United States and, in compliance with Section 404 of the Clean Water Act (33 U.S.C. § 1344), will require a permit from the United States Army Corps of Engineers, Sacramento District (Corps), whose permit area is wholly contained within the Area of Potential Effects (APE) for the Undertaking; and

WHEREAS FRA has invited the Corps and STB to become signatory parties to this Memorandum of Agreement (MOA); and

WHEREAS the Corps and STB have designated FRA as the Lead Federal Agency to act on their behalf for purposes of compliance with Section 106 for this Undertaking and have participated in this consultation; and

WHEREAS the Authority has established the Undertaking's APE pursuant to Stipulation IV.A of the PA as those areas within the limit of construction, temporary construction easements, permanent easements, right of way, and adjacent or contiguous properties where visual effects may occur (see Attachment 2); and

WHEREAS to date the FRA and the Authority have determined that, within the APE, the following properties are listed in or are eligible for inclusion in the National Register of Historic Places:

- Holt Lumber, 1916 S. Cherry Avenue, Fresno
- South Van Ness Entrance Gate, Fresno
- Washington Irrigated Colony Rural Historic Landscape, Fresno County, including five contributing elements:

- Washington Colony Canal
- North Branch of Oleander Canal
- 6422 S. Maple Avenue
- 7870 S. Maple Avenue
- 7887 S. Maple Avenue
- Peoples Ditch, Kings County
- Lakeside Cemetery, Kings County
- Santa Fe Freight Depot, Shafter
- San Francisco & San Joaquin Valley Railroad Section House, Shafter
- Friant Kern Canal, Kern County
- Harvey Auditorium at Bakersfield High School, Bakersfield
- Kern County Civic Administrative Center, 1315-1415 Truxtun Avenue, Bakersfield
- Stark/Spencer Residence, 1321 N Street, Bakersfield
- Union Avenue Corridor (State Route 204 through Bakersfield)
- Salón Juárez, 815 E. 18th Street, Bakersfield
- Residence at 1031 E. 18th Avenue, Bakersfield
- San Joaquin Cotton Oil Company, 1660 E. California Avenue, Bakersfield
- Residence at 2509 E. California Avenue, Bakersfield

WHEREAS the FRA and the Authority, in consultation with the SHPO, have applied the criteria of adverse effect to known historic properties and have determined that the Project will have an adverse effect on:

- South Van Ness Entrance Gate, Fresno
- Washington Irrigated Colony Rural Historic Landscape, Fresno County, including four contributing elements:
 - Washington Colony Canal
 - North Branch of Oleander Canal
 - 7870 S. Maple Avenue
 - 7887 S. Maple Avenue
- Peoples Ditch, Kings County
- Lakeside Cemetery, Kings County
- Stark/Spencer Residence, 1321 N Street, Bakersfield

WHEREAS the FRA and the Authority, in consultation with the SHPO, have applied the criteria of adverse effect to known historic properties and have determined that the Project will have no adverse effect through the implementation of conditions provided for in Attachment 3 of this MOA to:

- Salón Juárez, 815 E. 18th Street, Bakersfield

WHEREAS FRA has concluded that the Undertaking will have an adverse effect on historic properties, as documented in the Findings of Effect (FOE) for the Fresno to Bakersfield Section of the HST Project (February 2014); and

WHEREAS FRA and the Authority have consulted with the SHPO and the ACHP pursuant to the PA and 36 CFR Part 800 regarding the Undertaking's adverse effects on historic properties, and have notified the ACHP of the adverse effect finding pursuant to 36 CFR § 800.6(a)(1). The FRA and the Authority have invited the ACHP to participate in this MOA, and in a letter dated March 3, 2014, the ACHP elected to participate; and

WHEREAS the Undertaking will be contracted, designed, and constructed using a Design-Build procurement process, in which the current level of design is 15% and the Design-Build contractor will advance design to 100%, potentially resulting in adjustments to the construction footprint of the Undertaking; and

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WHEREAS the FRA and the Authority have determined that the Design-Build process is likely to affect as-yet unidentified historic properties that have not been subject to prior cultural resource investigations, in areas that are associated with potential alignment modifications, and ancillary activities including, but not limited to, utilities relocation, wetland mitigation sites, staging, stockpiling and access areas, heavy maintenance facilities, and disposal sites, and that the APE may need to be revised and additional identification be undertaken to consider such areas; and

WHEREAS access for archaeological survey has been limited to approximately 30% of the Archaeological APE, due to lack of permission to enter private landholdings; and

WHEREAS built environment inventories and effects assessments are 100% complete for the current level of design; and

WHEREAS the FRA and the Authority have identified the need for ongoing identification and evaluation of historic properties, and have elected to phase these efforts as provided for in Stipulation VI.E of the PA, due to both land-access difficulties and the Design-Build process; and

WHEREAS the FRA and the Authority have determined that the nature of the proposed Undertaking's operation and maintenance may constrain the Undertaking's design in a manner that precludes the possibility of avoiding adverse effects on the subject historic properties, and have further determined that they will resolve such effects through the execution and implementation of this MOA, as well the future development of an Archaeological Treatment Plan (ATP) and Built Environment Treatment Plan (BETP); and

WHEREAS In accordance with PA Stipulations V.A and V.B, the FRA and Authority have consulted with affected local governments and other interested parties about the Undertaking and its effects on historic properties and have taken into account all comments received from them. The City of Fresno, City of Corcoran, City of Shafter, the California Department of Parks and Recreation, and the Sociedad Juárez Mutualista Mexicana have participated in the consultation and have accepted FRA and the Authority's invitation to be concurring parties to the development of this MOA; and

WHEREAS in accordance with PA Stipulations IV.A and IV.C., FRA has formally consulted with or has made a good faith effort to formally consult with the following federally recognized Native American tribes with ancestral ties to Fresno, Kings, Tulare, or Kern counties and has invited them to participate as consulting parties in the development of this MOA: Santa Rosa Tachi Yokuts Tribe, Table Mountain Rancheria, Picayune Rancheria of the Chukchansi Indians, Tule River Indian Tribe, Tejon Indian Tribe, Cold Springs Rancheria of Mono Indians, and Big Sandy Rancheria of Mono Indians; and

WHEREAS the Santa Rosa Tachi Yokuts Tribe, Table Mountain Rancheria, Picayune Rancheria of the Chukchansi Indians, and the Tule River Indian Tribe have accepted the FRA's invitation to be concurring parties to the development of this MOA; and

WHEREAS in accordance with PA Stipulations IV.B, IV.C.1, and IV.C.2, the Authority has consulted with or made a good faith effort to consult with the following non-federally recognized Native American tribes with ancestral ties to Fresno, Kern, Tulare, or Kings counties and has invited them to participate as concurring parties in the development of this MOA: Kings River Choinumni, Choinumni Tribe of Yokuts, Traditional Choinumni Tribe, Sierra Nevada Native American Coalition, Dumna Wo-Wah Tribal Government, Dunlap Band of Mono Preservation Society, Choinumni Tribe, and the Kern Valley Indian Council; and

WHEREAS the Kern Valley Indian Council has accepted the Authority's invitation to be a concurring party to the development of this MOA;

NOW, THEREFORE the FRA, STB, the Corps, the Authority, the SHPO, and the ACHP agree the Undertaking will be implemented in accordance with the following stipulations in order to resolve the adverse effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all its parts.

STIPULATIONS

The FRA, in coordination with the Authority, shall ensure the following:

I. OVERSIGHT AND COORDINATION

Because the undertakings of the STB and the Corps are entirely subsumed within the FRA's undertaking, the FRA as the lead federal agency will be responsible for ensuring compliance with all stipulations of this agreement.

The ATP and BETP will describe the treatment for known historic properties and outline the process of identifying presently unknown historic properties. After the design of the Undertaking is advanced to 100% and archaeological surveys are completed within the limits of construction, the FRA and the Authority will direct the Design-Build contractor to prepare proposed supplemental eligibility determinations and assessments of effects. These recommendations will be based on the Design-Build contractor's technical studies to address design changes and their effects on historic properties. The MOA signatories will review the supplemental eligibility determinations and assessments of effects in accordance with Stipulations III and IV. The FRA and the Authority will also ensure that the Design-Build contractor prepares "final supplemental treatment plans" to be reviewed by the MOA signatories in accordance with Stipulation V.D.

II. AREA OF POTENTIAL EFFECTS

The FRA and Authority have delineated an APE for the Undertaking which consists of both a Built Environment and Archaeological APE and is described and depicted in Attachment 2 of this MOA. The APE consists of approximately 114 linear miles of track on new alignment, with a right-of-way anticipated to average about 100 feet wide. The vertical APE varies widely depending on terrain and engineering needs, with most areas experiencing ground disturbances to depths of two meters or less, and a small number of areas being disturbed to depths as great as eight meters. The APE represents the maximum extent of any potential ground disturbance and of any indirect effects from the construction of the Undertaking. The APE was developed and agreed upon among FRA, the Authority, and the SHPO consistent with the requirements of PA Stipulation VI.A, and accounts for potential impacts on both archaeological and built-environment historic properties that may result from the construction and operation of the Project.

The design of the Undertaking will be fully designed through the Design-Build process, which will likely result in modifications to the APE and a need for additional historic property identification efforts. Pursuant to PA Stipulation VI.A, the Authority shall inform the parties to this MOA within 15 days of the determination that the APE must be modified. Actions to be taken after any such modification shall be conducted in accordance with PA Stipulations VI and IX.

III. COMPLETION OF HISTORIC PROPERTIES IDENTIFICATION

Built environment inventory and evaluations are 100% complete for the current level of design (15%), and effects assessments have also been made based on 15% design. While thorough built environment inventory and evaluations have been completed for the Undertaking, the nature of design-build

contracting requires that inventories, evaluations, and adverse effects assessments be made at the conclusion of the design process, but prior to construction, both of which will follow execution of this MOA.

As stated in the recitals, 70% of the land in the Undertaking's APE has yet to be surveyed for archaeological resources as of the time of the execution of this MOA, due to a lack of legal access to that land. Survey efforts are ongoing, and subsequent to the execution of this MOA, the FRA and the Authority will complete the remaining archaeological inventories, along with any test excavations, geoarchaeological investigations and data recovery, as outlined in the ATP, prior to construction in those areas.

Identified historic properties and potential historic properties have included archaeological sites, built environment resources (i.e., buildings, canals, etc.), an historic landscape (Washington Irrigated Colony Rural Historic Landscape), and a traditional cultural property (TCP) (Salon Juarez). FRA and the Authority acknowledge the possibility of encountering other NRHP-eligible resource types, including, but not limited to, resources such as archaeological or historical districts, Native American sacred sites, and additional cultural and/or historical landscapes. These resources will be addressed in accordance with PA Stipulations VI and VII, and will be documented and evaluated, as appropriate, in Archaeological Survey Reports (ASRs), Historic Architecture Survey Reports (HASRs), or in stand-alone evaluation documents, such as the study completed for the Salon Juarez TCP.

The FRA and Authority will ensure that any additional historic property identification efforts are completed as outlined below and that documentation of the identification efforts is prepared in accordance with this MOA, the treatment plans, and PA Stipulation VI. Following review and concurrence by the FRA as outlined in PA Stipulation VI.C.1, the Authority will submit documentation of these efforts to the SHPO and other parties to this MOA for a 30-day review period. The Authority shall ensure that the comments regarding identification efforts that are received through this consultation process will be considered prior to finalizing any inventory and evaluation documentation.

A. Archaeology

As access for archaeological survey is obtained and design is completed, the FRA and Authority shall ensure that the phased identification of archaeological resources is completed in previously-unsurveyed portions of the archaeological APE, prior to any ground-disturbing activities, and in conformance with PA Stipulations VI.C.1, Stipulation VI.E, and Attachment C of the PA. Specifically, the FRA and Authority shall ensure that pedestrian archaeological survey of these areas is conducted as access is obtained, and that testing and evaluation is conducted of archaeological sites that cannot be avoided (except those identified as exempt from evaluation, per Attachment D of the PA). Where appropriate, combined testing and data recovery will be completed as outlined in PA Stipulation VI.C.1, the requirements of which will be detailed in the ATP. The FRA and Authority shall ensure that documentation is prepared and provided to the SHPO to document these efforts to identify and evaluate archaeological resources in the Undertaking's APE in compliance with PA Stipulation VI.

B. Built Environment

As design is finalized for the Undertaking, the FRA and Authority shall ensure that the built environment APE is revised as necessary and any potential historic properties within the revised APE are inventoried and evaluated (except those identified as exempt from evaluation, per Attachment D of the PA), pursuant to PA Stipulations VI and IX. The FRA and Authority shall ensure that documentation is prepared and provided to the SHPO to document efforts to identify and evaluate built environment resources in the Undertaking's APE in compliance with PA Stipulation VI.

IV. ASSESSMENT OF EFFECTS

FRA and the Authority will ensure that supplemental FOEs are prepared in accordance with PA Stipulation VII once supplemental historic property identification efforts are completed. Following FRA review and concurrence in the supplemental FOEs, they will be submitted by the Authority for concurrent review by both signatories and concurring parties to this MOA for a 30-day review period. The Authority shall ensure that the comments regarding effects which are received as a result of this consultation process will be considered prior to finalizing the supplemental FOEs.

V. TREATMENT OF HISTORIC PROPERTIES

The FRA and Authority will ensure that adverse effects to both currently known and yet-to-be-identified historic properties will be resolved. Treatment measures for known historic resources are outlined in Attachment 3 of this MOA.

In compliance with PA Stipulation VIII.B, the FRA and Authority shall ensure that two historic property treatment plans are prepared for the Undertaking, consisting of an ATP and a BETP. FRA and the Authority acknowledge the possibility of encountering other NRHP-eligible resource types, including, but not limited to, resources such as archaeological or historical districts, Native American sacred sites, and additional cultural and/or historical landscapes. These resources will be treated in accordance with PA Stipulation VIII, and treatments will be identified in ATPs, BETPs, or stand-alone Treatment Plans (depending on which format is most appropriate). The FRA and the Authority shall ensure that the treatment plans are prepared sufficiently in advance of the start of construction to obtain concurrence on any phased identification, evaluation, and effects assessments still outstanding and in time to obtain agreement amongst the signatories and concurring parties on the adequacy of any proposed treatments. The FRA shall ensure that the Authority provides sufficient time and funding to complete all necessary preconstruction measures outlined in the treatment plans prior to commencement of construction activities that have the potential to affect historic properties. Treatment measures may be implemented before, during, or after construction of the Undertaking, depending on the timing requirements of the individual measures.

The Authority shall provide draft treatment plans to the MOA signatories for a 30-day review and comment period. Based on the comments received, the treatment plans will be finalized in accordance with PA Stipulation VIII.C.1. Treatment measures may be implemented before, during, or after construction of the Undertaking, depending on the timing requirements of the individual measures. Through these measures, the FRA and the Authority, in consultation with SHPO and the other signatories, affected tribes, and other concurring parties to this MOA, will continue the process of identifying presently unknown historic properties within the limits of construction, evaluate their eligibility for the NRHP, establish a process to address design changes and their effects on historic properties, resolve any adverse effects to such properties, and address the need to treat any previously unknown properties discovered during Project construction.

The Authority will provide the treatment plans to the Design-Build contractor, and will ensure that the Design-Build contract contains provisions identifying the treatment measures the Design-Build contractor is responsible for completing. The Authority will coordinate with FRA to determine the effects of any revisions to the APE and the treatment plans resulting from the completion of the archaeological survey and the design process.

A. Archaeological Treatment Plan

In accordance with Stipulation VIII.B and Attachment C of the PA, the FRA and Authority shall, in consultation with the SHPO and the other parties to this MOA, ensure that an ATP is developed and implemented for the treatment of archaeological resources.

There are currently no known NRHP-eligible archaeological resources within the APE. As part of the phased identification of historic properties, the ATP will describe the methods to be employed to complete the historic properties identification effort within the Undertaking's APE. Building upon the identification efforts completed to date, the ATP will describe the methods that will be employed to conduct additional archaeological site evaluations, considering all four NRHP criteria (A, B, C, and D). The ATP will also specify where and under what circumstances further efforts will be made to identify NRHP-eligible archaeological deposits which have the potential to be affected by the Undertaking. As allowed under PA Stipulation VI.C, this MOA directs that the treatment plans also address the use of a combined archaeological testing and data recovery program where needed (depending on construction scheduling and nature of discovered resources) to facilitate construction. Finally, the ATP will describe in detail the required avoidance, minimization, and/or mitigation measures for any yet-to-be-identified NRHP-eligible archaeological resources, including any historic properties of significance to Indian tribes, affected by the Undertaking.

The major elements and commitments in the ATP shall be consistent with the requirements of PA Stipulation VIII.B and shall include the following:

- Roles and responsibilities of implementing and reviewing parties
- Qualifications of staff implementing the treatment plan
- A process consistent with and reflective of Section 106, to identify, evaluate, and resolve adverse effects to historic properties, involving appropriate agencies, and affected tribes and other consulting parties.
- A summary of anticipated archaeological property types, including pertinent research domains and data requirements.
- Expectations and survey design for completing pedestrian survey of the additional investigation locations.
- Expectations and survey design for currently identified natural resource mitigation sites.
- A strategy for the systematic exploration of areas where unidentified archaeological properties are anticipated in the APE. The strategy will include methods for targeted geoarchaeological excavations in areas considered sensitive for the presence of buried archaeological resources.
- Documentation and recording standards for newly-discovered resources.
- Data collection, analysis, and reporting standards (consistent with SHPO guidelines) for NRHP-eligible properties
- Measures to be used during construction, such as exclusion zones, Environmentally Sensitive Areas (ESAs), and/or monitoring
- A monitoring plan for areas identified for archaeological monitoring and Native American monitoring, including protocols and procedures to address archaeological monitoring, unanticipated discoveries, and the treatment of human remains.
- Native American Graves Protection and Repatriation Act (NAGPRA) compliance (where applicable)
- Compliance schedule
- Reporting requirements
- Ownership and curation of archaeological materials
- Mechanisms to resolve as-yet-unidentified adverse effects
- Procedures for creating treatment plan addenda to address newly discovered resources or to outline additional treatment.

B. Built Environment Treatment Plan

The FRA and the Authority will ensure that a BETP is developed and implemented outlining the treatment measures for built environment historic properties located within the APE that will be affected by the Undertaking. These measures will avoid, minimize, and/or mitigate adverse effects caused by the Undertaking and will include treatments to be conducted prior to, during, and/or after construction of the Undertaking. The plan will also include measures for identification and evaluation of effect on historic

properties that may become necessary as a result of changes in the APE. The treatments for historic properties known at the time of execution of this MOA are summarized in Attachment 3 of this MOA.

The major elements and commitments in the BETP shall be consistent with the requirements of PA Stipulation VIII.B and shall include the following:

- Roles and responsibilities of implementing and reviewing parties
- Qualifications of professional staff implementing the treatment plan
- Mechanisms to inventory, evaluate, and resolve effects for any as-yet-identified built environment resources, as necessary.
- Measures to be used during construction, such as exclusion zones, Environmentally Sensitive Areas (ESAs), and/or monitoring
- Requirements for building/structure protection and stabilization plans
- Requirements for response plans for unanticipated effects and inadvertent damage
- Methods to assess, avoid, minimize, or mitigate vibration and noise effects
- Monitoring requirements
- Compliance schedule
- Reporting requirements
- Requirements for archival documentation procedures
- Other treatment measures as appropriate, including, but not limited to: moving buildings/structures, historic preservation design review, preparation of interpretive materials and exhibits
- Procedures for creating treatment plan addenda to address newly discovered resources or to outline additional treatment

C. Treatment Plan Amendment

To address changes in the Undertaking or the treatment of historic properties affected by the Undertaking, the Authority, in coordination with FRA may propose revisions to one or both historic property treatment plans to the other parties to this MOA. Upon the written concurrence of the SHPO, the Authority, in coordination with FRA may revise the plan(s) to incorporate the agreed-upon changes without executing a formal amendment to this MOA.

D. Final Supplemental Treatment Plans

To address the Design-Build procurement process, the FRA and Authority shall ensure that final supplemental treatment plans are completed at the conclusion of the design process. These final supplemental treatment plans will reexamine the treatments recommended in the original treatment plans and review final design to ensure that all properties adversely affected are addressed and that treatments are appropriate for the impacts that will result from the final design. Preliminary draft treatment plans will be provided to FRA by the Authority for a 14-day review period. Following FRA review and revision, the Authority shall provide draft final supplemental treatment plans to the MOA signatories for a 30-day review and comment period. Based on the comments received, the Authority will revise and submit the treatment plans to the MOA signatories for final 30-day review. The Authority shall ensure that comments received as a result of this consultation process will be considered prior to finalizing final supplemental treatment plans.

VI. CONSTRUCTION FOLLOWING TREATMENT PLAN IMPLEMENTATION

In accordance with PA Stipulation X, following finalization of the treatment plans and completion of the pre-construction measures prescribed therein, the Authority may authorize construction within portions of the APE either where there are either no historic properties, no historic properties affected, or where

treatment has been completed. The Authority will ensure that any ground-disturbing activities are approved to proceed before any such activities occur.

VII. UNANTICIPATED DISCOVERIES DURING CONSTRUCTION

It is possible that previously unknown archaeological resources could be discovered during ground-disturbing construction activities associated with the Undertaking. The following protocols will be implemented in the event of such discoveries.

A. Protocols for Discoveries

The ATP will address the identification of archaeologically-sensitive areas that require archaeological monitoring, and detail protocols for discoveries, in accordance with PA Stipulation XI. If any potential archaeological resources are observed during construction, the onsite archaeological monitor will issue a temporary work stoppage to the equipment operator to allow for a closer inspection of the discovery. Work will be stopped within a 50-foot radius of the discovery, or other such distance that is determined by the archaeological monitor to be necessary to avoid or minimize harm to the discovered archaeological resources. Construction activities may continue outside the area of the discovery, but the area of the discovery will remain undisturbed by construction activities until the archaeological monitor can complete an inspection and notify and consult with the Qualified Investigator (QI) regarding the discovery. The QI will notify the Authority of the discovery. The qualifications and general role of the QI is identified in PA Stipulation III, and will be described in greater detail in the "Roles and Responsibilities" section of the Treatment Plans. The FRA and the Authority, in consultation with the MOA signatories, will determine the resource's eligibility, identify the effects, determine if adverse effects can be avoided by alteration of construction methods or the installation of protective measures, and, if not, mitigate impacts to the new discoveries or newly affected properties in accordance with the stipulations of project-specific treatment plans. The Authority shall consult with the MOA signatories in accordance with the process outlined in PA Stipulation XI.A-F.

B. MOA Signatory Consultation

In accordance with PA Stipulation XI.A-B, the Authority will consult with the FRA within 24 hours of a discovery for which a stop work order has been issued with a preliminary determination of the National Register eligibility of the historic property and the potential for the undertaking to adversely affect the resource. If adverse effects to the resource can be avoided, no consultation with MOA signatories and consulting parties is necessary. If the Authority and FRA determine that the property is likely an eligible or potentially eligible property and that it would be adversely affected by the Undertaking, they will develop recommendations regarding the proposed treatment measures to minimize adverse effects on the discovered resource. Within 48 hours of the discovery, the Authority will consult with the MOA signatories and propose treatment measures to minimize the effects. The Authority, in consultation with the FRA, will provide the MOA signatories with the recommended approach to treating the discovery. FRA and the Authority shall consult with the MOA signatories on the recommended approach via email and phone, with hard copy documentation on the treatment to follow. FRA and the Authority will take the MOA signatories comments into account in reaching a final decision on the recommended approach to avoid, minimize, or mitigate effects. If the Authority and FRA determine, in consultation with the MOA signatories and Native American tribes and groups, that the unanticipated discovery is not eligible and no further investigation is warranted, the Authority will notify the Design- Build contractor that clearance has been granted to resume work in the area.

C. Consultation with Native American Tribes

In accordance with PA Stipulation XI.C, the Authority shall notify the FRA and Native American concurring parties of any discoveries that have the potential to adversely affect properties of religious and cultural significance to them within 24 hours of the discovery. After reviewing such discoveries, the aforementioned Native American tribes can request further consultation on the Undertaking by notifying the FRA in writing within 48 hours of being provided notice of the discovery. The Authority shall notify interested Native American groups that are not federally recognized of any discoveries that have the potential to adversely affect properties of religious and cultural significance to them within 24 hours of the discovery. After reviewing such discoveries, the interested Native American groups can request further consultation on the Undertaking by notifying the Authority in writing within 48 hours of the Authority providing notice of the discovery. FRA and the Authority will take the interested Native American groups' comments into account in reaching a final decision on the recommended approach to avoid, minimize, or mitigate effects.

D. Evaluation and Treatment of Unanticipated Discoveries

Per PA Stipulation XI.D through XI.F, upon agreement between the signatories to this MOA regarding the appropriate treatment for an unanticipated discovery, the Authority will direct that avoidance, minimization, or treatment(s) be conducted in accordance with the ATP. If data recovery excavations are the only selected treatment, a work in the area of the discovery can resume as soon as the data recovery fieldwork is completed. A data recovery report will subsequently be prepared in accordance with the ATP. In the case that data recovery is not a selected treatment, or that there are additional treatments, construction-related work in the area of the discovery may resume upon agreement regarding treatments, depending on the nature of the selected treatment(s) and compatibility of the treatment(s) with the resumption of construction activities.

The Authority shall advise the FRA and other signatories of the satisfactory completion of the approved work. Once the approved work is completed, the activities that were halted to address the discovery situation may resume. Any treatment to damaged properties will follow the Secretary of the Interior's Standards for the Treatment of Historic Properties. If the Authority determines damaged property should be repaired after construction is completed, then stabilization measures that will prevent and not cause further damage will be installed. If a National Historic Landmark is affected, the Authority shall include the Secretary of the Interior represented by the National Park Service regional office's program coordinator) and the ACHP in the notification process.

VIII. ADMINISTRATIVE STIPULATIONS

A. Professional Standards and Report Dissemination

In accordance with PA Stipulation III, all activities regarding history, collections management, historical archaeology, prehistoric archaeology, architecture, landscape architecture, and architectural history that are accomplished pursuant to this MOA will be carried out by, or under the direct supervision of persons meeting the "Secretary of the Interior's Professional Qualification Standards" (48 FR Part 44716) in the appropriate discipline. The Authority and FRA will ensure that any additional professionals implementing any of the provisions in this MOA, the ATP, and/or the BETP will be appropriately qualified to undertake such tasks.

The Authority and FRA shall ensure that all reports, developed in accordance with Stipulation VIII, I. below, resulting from implementation of the ATP and the BETP are consistent with the PA and Authority cultural resources technical guidance, and that these reports meet contemporary professional standards as specified in the following documents (or the most recent versions available):

- *The Secretary of the Interiors Standards for the Treatment of Historic Properties* (National Park Service 1995 and updates);
- *The Secretary of the Interior's Standards and Guidelines for Archaeological Documentation* (National Park Service 1983 and updates);
- *The Secretary of the Interior's Standards and Guidelines for Architectural and Engineering Documentation* (Federal Register 2003);
- California Office of Historic Preservation's *Archaeological Resource Management Reports (ARMR): Recommended Contents and Format* (OHP 1990);
- California Office of Historic Preservation's *Guidelines for Archaeological Research Designs* (OHP 1991).

Copies of all final reports will be provided to the SHPO, the Central California Information Center and the consulting parties. FRA and the Authority shall ensure that the materials and records resulting from the activities prescribed by this MOA are curated in accordance with 36 CFR Part 79 and PA Stipulation XIV, or at a suitable facility identified in consultation with the SHPO, as appropriate.

B. Confidentiality

The signatories and concurring parties to this MOA acknowledge that the handling of documentation regarding historic properties covered by this MOA are subject to the provisions of § 304 of the National Historic Preservation Act (NHPA) of 1966, and § 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archeological site information. As such, the FRA and Authority shall withhold from public disclosure sensitive information as provided for in Section 304 of the NHPA and Section 6254.10 of the California Government Code. PA Stipulation XII regarding confidentiality remains in effect and also applies to actions and documentation prescribed by the MOA.

C. Dispute Resolution

Should any signatory party to this MOA object to any actions proposed or the manner in which the terms of this MOA are implemented, FRA shall consult with such party to resolve the objection. If FRA determines that such objection cannot be resolved within fifteen (15) calendar days, FRA shall forward all documentation relevant to the dispute, including the FRA's proposed resolution, to the ACHP and request its advice on the resolution of the objection within thirty (30) days of receiving documentation. FRA will also provide a copy to all signatories and concurring parties. FRA shall take into account any timely advice or comments regarding the dispute from the ACHP and signatories and concurring parties to the MOA in reaching a final decision on the dispute. Following the thirty (30) day time period, FRA shall prepare a written response documenting its final decision and provide a copy of this written response to the ACHP, signatories, and concurring parties. FRA will then proceed according to its final decision. FRA's and the Authority's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remains unchanged.

D. Amendment

Any signatory to this MOA may propose that this MOA be amended, whereupon all signatories shall consult for 30 days, or another time period as agreed to by all signatories, to consider such an amendment. This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the MOA in accordance with Stipulation V.E, below.

E. Termination

If any signatory believes that the terms of this MOA are not being carried out or cannot be carried out, that party shall immediately notify the other signatories in writing and consult with the other parties for a

period of at least 30 days to attempt to develop an amendment per Stipulation V.D above. Should such consultation result in an agreement on an alternative to termination, the signatory parties shall amend the MOA in accordance with Stipulation V.D. If within thirty (30) days, or another time period agreed to by all signatories, an agreement for the amendment to the MOA cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories. Termination hereunder shall render this MOA without further force or effect.

If this MOA is terminated for any reason, prior to proceeding with the Undertaking, FRA will either execute a new MOA for the Undertaking pursuant to 36 CFR § 800.6, follow the procedures outlined in 36 CFR Part 800, or request, take into account, and respond to, the comments of the ACHP pursuant to 36 CFR § 800.7. FRA shall notify the signatories and concurring parties as to the course of action it will pursue.

F. Resolution of Public Objections

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 the other signatory parties in writing of the objection. FRA shall consult with the objecting party and with the other signatories for no more than thirty (30) days to resolve the objection. FRA will take all comments from the other signatory parties into account. Within fifteen (15) days following closure of the consultation period, FRA shall render a decision regarding the objection and notify all parties of this decision in writing, including a copy of the response to the objecting party. FRA's decision regarding resolution of the objection will be final. Following issuance of its final decision, FRA may authorize the action subject to the objection to proceed in accordance with the terms of that decision.

G. Notice to Proceed

Upon completion of reviews without objection, or with resolution of objections under Stipulation V.C or V.F of this MOA, the Authority will issue a notice to proceed in areas where adverse effects on historic properties have been addressed through this MOA and supporting documentation.

H. Duration

This MOA will be in effect for 20 years following the date of execution, unless terminated in accordance with Stipulation VIII.E above. If FRA determines that construction of the Undertaking has not been initiated within five years following execution of this MOA, the signatories shall consult to reconsider its terms at that time. Reconsideration may include amendment of the MOA to extend its duration and/or other provisions, or termination of the MOA. Once construction has been initiated, the signatories shall consult two (2) years after the official beginning of construction, to determine whether this MOA is meeting its intended functions, and needs to be continued as originally executed, amended, or terminated. FRA shall provide the other signatories with written notice of the need to consult in both scenarios described above (i.e., if construction has not begun within five years of execution, and/or two years after construction commences).

I. Reporting

Electronic submittals are acceptable to expedite reviews.

J. Bi-Annual Report

The Authority shall prepare a biannual report (Report), in consultation with FRA, documenting the implementation of this MOA. The reporting period shall begin on the date the Notice to Proceed is given to the design-build contractor and will be required so long as this MOA is in effect.

The Report shall include, at a minimum:

- List of all studies, reports, actions, evaluations, or monitoring reviewed or generated under the Stipulations of this MOA.
- Record of all consultation and outreach efforts related to the implementation of this MOA.
- Record of all efforts to identify and/or evaluate potential historic properties, monitoring efforts, archaeological management assessments or research designs, and treatment of historic properties.
- Any recommendations to amend this MOA or improve communications among the parties.

The Authority shall submit the Report to FRA on April 1st and October 1st of each year. After FRA review and revision of the draft Report, the Authority will provide the Report to the signatories and the concurring parties for a thirty-day (30-day) period to review and comment. At the request of the SHPO or a signatory or concurring party, the Authority, in consultation with FRA, shall supplement this process through meeting(s) to address comments and/or questions. The Report will be finalized after the close of the thirty-day (30-day) comment period and provided to the signatories and consulting parties. The Authority shall ensure that the Report is made available to the public, upon request.

IX. EFFECTIVE DATE AND EXECUTION

This MOA will take effect on the date that it has been executed by the Authority, FRA, STB, the Corps, the SHPO, and ACHP.

Execution of this MOA by FRA, STB, the Corps, the Authority, the SHPO, and the ACHP, its filing with the ACHP in accordance with 36 CFR 800.6(b)(1)(i), and subsequent implementation of its terms, shall evidence that FRA and the Authority have taken into account the effects of the Undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORY PARTIES

FEDERAL RAILROAD ADMINISTRATION

By: David Valenstein Date: 04/30/2014
Name: David Valenstein
Title: Division Chief, Environment and Systems Planning

CALIFORNIA HIGH-SPEED RAIL AUTHORITY

By: Jeff Morales Date: May 8, 2014
Name: Jeff Morales
Title: Chief Executive Officer

SURFACE TRANSPORTATION BOARD

By: Victoria Rutson Date: April 30, 2014
Name: Victoria Rutson
Title: Director, Office of Environmental Analysis

U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT

By: Michael S. Jewell Date: 6 May 2014
Name: Michael S. Jewell
Title: Chief, Regulatory Division

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: Carol Roland-Nawi Date: 8 May 2014
Name: Carol Roland-Nawi, Ph.D.
Title: California State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: John M. Fowler Date: 5/14/14
Name: John M. Fowler
Title: Executive Director

CONCURRING PARTIES – STATE AGENCIES, LOCAL GOVERNMENTS, ORGANIZATIONS

CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

By: _____ Date: _____

Name: Major General Anthony L. Jackson, USMC (Retired)
Title: Director, California Department of Parks and Recreation

CITY OF FRESNO

By: _____ Date: _____

Name:
Title:

CITY OF CORCORAN

By: _____ Date: _____

Name:
Title:

CITY OF SHAFTER

By: _____ Date: _____

Name:
Title:

CITY OF BAKERSFIELD

By: _____ Date: _____

Name: Douglas McIsaac
Title: Director, Community Development Department

SOCIEDAD JUÁREZ MUTUALISTA MEXICANA

By: _____ Date: _____

Name: Jessy Acosta
Title: Treasurer

CONCURRING PARTIES – NATIVE AMERICAN TRIBES AND GROUPS

SANTA ROSA TACHI YOKUTS TRIBE (FEDERALLY RECOGNIZED)

By: _____ Date: _____

Name:

Title:

TABLE MOUNTAIN RANCHERIA (FEDERALLY RECOGNIZED)

By: _____ Date: _____

Name:

Title:

PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS (FEDERALLY RECOGNIZED)

By: _____ Date: _____

Name:

Title:

TULE RIVER INDIAN TRIBE (FEDERALLY RECOGNIZED)

By: _____ Date: _____

Name:

Title:

KERN VALLEY INDIAN COUNCIL

By: _____ Date: _____

Name:

Title: