

**APPENDIX D: STATE HISTORIC PRESERVATION OFFICER (SHPO)  
SECTION 106 CONCURRENCE LETTER AND MEMORANDUM OF  
AGREEMENT (MOA) [MARCH 11, 2022]**





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

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March 27, 2020

Reply in Reference To: FRA100524A

Brett Rushing  
Cultural Resources Program Manager  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento, CA 95814

Re: Request for Review and Comment on Findings Presented in the *San Jose to Merced Project Section, Section 106 Finding of Effect Report*, Prepared by ICF (February 2020)

Dear Mr. Rushing:

The California High-Speed Rail Authority (Authority) is continuing consultation with the State Historic Preservation Officer (SHPO) regarding the San Jose to Merced Project Section of the California High-Speed Rail (HSR) Program. This consultation is undertaken in accordance with the *2011 Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority* (PA). The Authority is requesting SHPO comments on the *San Jose to Merced Project Section, Section 106 Finding of Effect Report* (FOE Report) prepared by ICF in February 2020 and on a finding of effect on 21 historic built properties and 33 archaeological resources.

The FOE Report assess effects on built environment and archaeological properties that would result from implementation of the Preferred Alternative for the San Jose to Central Valley Wye Project Extent (Preferred Alternative) of the California High-Speed Rail System. The Preferred Alternative consists of portions of the San Jose to Merced Project Section that extends from Scott Boulevard in San Jose to Carlucci Road in Merced County, the western limit of the Central Valley Wye. The Area of Potential Effects delineated for the San Jose to Merced Project Section Archaeological Survey Report (Authority and FRA 2019) and the San Jose to Merced Project Section Historic Architectural Survey Report (Authority and FRA 2019).

The Preferred Alternative has the potential to adversely affect five built environment historic properties, including three that would be demolished (the Madrone Underpass, Live Oak Creamery, and the Cozzi Family Property). Additionally, construction of new HSR station facilities would remove character-defining features and alter historic setting characteristics of the Southern Pacific Depot in San Jose and diminish the agricultural setting of the Negra Ranch. Mitigation Measures, such as a stipulation to involve stakeholders in the development of interpretive or educational materials, will be developed with consulting parties.

The FOE Report also concludes that the Preferred Alternative would potentially adversely affect two archaeological properties (CA-SCL-30/H and CA-338H) in the APE. Another 31 archaeological resources within the APE are assumed to be eligible for listing on the National Register of Historic Places, although formal evaluation of these resources is pending due to lack

of legal access to parcels and rights-of-way. The assessment of effects for all 33 resources will be phased in accordance with 36 CFR § 800.5(a)(3) and PA Stipulation VI.E and VIII.A.1.

Having reviewed your letter and the FOE Report, SHPO offers the following comments:

- SHPO concurs that, pursuant to 36 CFR § 800.5(a)(1) and (2), the Preferred Alternative has the potential to adversely affect the Southern Pacific Depot in San Jose, the Madrone Underpass, Live Oak Creamery, Negra Ranch, and the Cossi Family Property.
- SHPO concurs that, pursuant to 36 CFR § 800.5(b), the Preferred Alternative will have no adverse effect on the Santa Clara Railroad Complex, Sunlite Baking Co., San Martin Winery, Southern Pacific Station in Gilroy, Pacheco California Department of Forestry Station, and the Cottani Family Property.
- SHPO concurs that, pursuant to 36 CFR § 800.4(d)(1), the preferred alternative will have no effect on Pacific Intertie Transmission Line, Villa Mira Monte, Hoenck House, IOOF Orphanage School, Horace Wilson House, Ellis Ranch, Millers Canal, the California Aqueduct, the Delta Mendota Canal, and the San Joaquin & Kings River Main Canal.
- SHPO agrees that, per 36 CFR § 800.5(a)(3) and PA Stipulation VI.E and VIII.A.1., the phased application of the criteria of adverse effect on 33 archaeological resources identified in Table 2 of the Authority's February 28, 2020 letter is appropriate at this time.
- SHPO has no comments on the format or structure of the FOE Report.

If you have any questions or comments, contact State Historian Tristan Tozer at (916) 445-7027 or at [Tristan.Tozer@parks.ca.gov](mailto:Tristan.Tozer@parks.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to be 'JP', followed by a long horizontal line extending to the right.

Julianne Polanco  
State Historic Preservation Officer

**MEMORANDUM OF AGREEMENT  
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,  
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE SAN JOSE TO MERCED PROJECT SECTION OF THE  
CALIFORNIA HIGH-SPEED RAIL PROGRAM IN  
SANTA CLARA, SAN BENITO, AND MERCED COUNTIES, CALIFORNIA**

**WHEREAS**, the California High-Speed Rail Authority (Authority) proposes to construct the San Jose to Merced Project Section (the Undertaking), an approximately 145-mile portion of the California High-Speed Rail Program in Santa Clara, San Benito, and Merced Counties, which would consist of constructing a new rail alignment, stations, maintenance facilities, electrical substations, and other appurtenant facilities; and

**WHEREAS**, the San Jose to Merced Project Section was identified as an undertaking subject to review under Section 106 of the National Historic Preservation Act (54 United States Code [U.S.C.] § 306108) and its implementing regulations (36 Code of Federal Regulations [CFR] Part 800) in the *Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Authority regarding compliance with Section 106 of the National Historic Preservation Act as it pertains to the California High-Speed Train Project* executed on July 22, 2011 (**Attachment 1**); and

**WHEREAS**, the *First Amendment to the Programmatic Agreement among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority regarding compliance with Section 106 of the National Historic Preservation Act as it pertains to the California High-Speed Train Project (PA)* was executed on July 21, 2021, extending the expiration of the PA from July 22, 2021 to July 23, 2024 (**Attachment 1**); and

**WHEREAS**, the Authority has coordinated compliance with Section 106 and 36 CFR Part 800 with steps taken to meet the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) and has planned public participation, analysis, and review in such a way to satisfy the requirements of each statute; and

**WHEREAS**, on July 23, 2019, the State of California and the Federal Railroad Administration (FRA) executed a memorandum of understanding under the Surface Transportation Project Delivery Program (known as NEPA Assignment), pursuant to the legal authority under 23 U.S.C. §327; and under NEPA Assignment, the State, acting through the California State Transportation Agency and the Authority, assumed FRA's responsibilities under NEPA and other federal environmental laws, including Section 106; and

**WHEREAS**, the FRA notified the Authority that the FRA would not be participating in consultation regarding the Undertaking; and

**WHEREAS**, government-to-government consultation with federally recognized Native American tribes remains the FRA's responsibility under NEPA assignment; and

**WHEREAS**, on April 18, 2013, the Surface Transportation Board (STB) issued a decision concluding that it has jurisdiction over the construction of the California High-Speed Rail Program, requiring the Authority to obtain STB approval for the construction of each project section, and STB subsequently designated

FRA lead agency to act on its behalf for the purposes of compliance with Section 106 for High-Speed Rail Program undertakings; and on June 23, 2021 the STB designated the Authority as lead Federal agency for Section 106, and the STB accepted the Authority's invitation to be an invited signatory to this memorandum of agreement (MOA); and

**WHEREAS**, on May 20, 2020, the United States Army Corps of Engineers (USACE), San Francisco, Sacramento and Los Angeles districts, sent a letter to the Authority reaffirming their understanding regarding the Authority's role as lead agency for compliance with Section 106, and that the Authority has the responsibility to act on the USACE's behalf for their discretionary federal actions related to all HSR project sections; and

**WHEREAS**, the Undertaking would be designed and constructed using a procurement process, in which the current level of design is generally 15 percent complete and which the Authority's contractor (the Contractor) will advance to 100 percent, potentially resulting in changes to the project footprint; and

**WHEREAS**, the Authority has delineated the Area of Potential Effects (APE) for the Undertaking based on the current level of design in accordance with Stipulation VI.A of the PA to encompass the geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties, as depicted in **Attachment 2**; and

**WHEREAS**, the Authority surveyed the APE for built-environment resources and, in consultation with the California State Historic Preservation Officer (SHPO) and other consulting parties, determined that the APE contains 21 built-environment historic properties listed in or considered eligible for listing in the National Register of Historic Places (listed in **Attachment 3**); and

**WHEREAS**, the Authority has surveyed approximately 0.1 percent of the project footprint for archaeological resources and, in consultation with the SHPO and other consulting parties, determined that the APE contains two known archaeological historic properties (CA-SCL-30/H (P-43-000050) and CA-SCL-338H (P-43-000245)) and 31 other archaeological resources (listed in **Attachment 3**) that are currently unevaluated and presumed NRHP-eligible for planning purposes; and

**WHEREAS**, the Authority proposes to phase the identification and evaluation of archaeological historic properties as provided for in Stipulation VI.E of the PA and 36 CFR 800.4(b)(2); and

**WHEREAS**, the Advisory Council on Historic Preservation (ACHP) notified the Authority that the ACHP would not be participating in consultation regarding the Undertaking by letter on May 3, 2021; and

**WHEREAS**, the Authority, in consultation with the SHPO, STB, and other consulting parties, determined that the Undertaking may have an adverse effect on 5 built-environment historic properties (Southern Pacific Depot, Madrone Underpass, Live Oak Creamery, Negra Ranch, Cozzi Family Property), no adverse effect on 6 built-environment historic properties, and no effect on 10 built-environment historic properties, as documented in the Finding of Effect (FOE) report for the San Jose to Merced Project Section, and as listed in **Attachment 3** of this MOA; the Authority will phase the evaluation and effects assessment for the remaining 33 archaeological properties that have been identified in the APE; and

**WHEREAS**, the Authority will ensure the avoidance, minimization, or resolution of adverse effects of the Undertaking on historic properties through the execution and implementation of this MOA and the implementation of the Archaeological Treatment Plan (ATP; **Attachment 4**) and the Built Environment Treatment Plan (BETP; **Attachment 5**); and

**WHEREAS**, in accordance with Stipulation V.A and V.B of the PA, the Authority has consulted with agencies with jurisdiction over portions of the APE and other parties with a demonstrated interest in the undertaking, a legal or economic relation to an affected historic property, or concern with the Undertaking's effects on historic properties, as noted in **Attachment 6**, about the Undertaking and its effects on historic properties and has taken into account all comments received from them; and

**WHEREAS**, in accordance with Stipulation IV.A.5 and IV.C.2 of the PA, the FRA, with the support of and in coordination with the Authority, has formally consulted with or has made a good faith effort to formally consult with the federally recognized Native American tribes that may attach religious and cultural significance to historic properties within the APE of the Undertaking; the federally recognized tribes that have chosen to participate in the consultation are identified in **Attachment 7**; and

**WHEREAS**, in accordance with Stipulation IV of the PA, the Authority has consulted with or made a good faith effort to consult with California Native American tribes that are on the Native American Heritage Commission's consultation list that are traditionally and culturally affiliated with the APE of the Undertaking; the California Native American tribes that have chosen to participate in the consultation are identified in **Attachment 7**; and

**WHEREAS**, the parties listed in **Attachments 6** and **7** have accepted the Authority's invitation to be consulting parties to the Undertaking (collectively referred to as the Consulting Parties); and

**WHEREAS**, the Authority sought and considered the views of the public on this Undertaking through its public involvement program as part of the environmental review process and requirements of NEPA and CEQA, as described in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Undertaking, which included distributing informational materials to the public, making presentations and soliciting comments at public meetings, and circulating the draft and final EIR/EIS for public review and comment; and

**WHEREAS**, the Authority and the SHPO are collectively referred to as the Signatories; STB is referred to as an Invited Signatory; and

**WHEREAS**, the Consulting Parties that are not Signatories have been invited to sign this MOA as concurring parties; and

**NOW, THEREFORE**, the Authority and SHPO agree the Undertaking will be implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties, and further agree that these stipulations shall govern the Undertaking and all its parts until this MOA expires or is terminated.

#### **STIPULATIONS**

The Authority, with the assistance of its Contractor, shall ensure that the following stipulations of this MOA are carried out:

##### **I. OVERSIGHT AND COORDINATION**

The Authority, as the lead federal agency, will be responsible for ensuring compliance with all stipulations of this MOA, with the exception of government-to-government consultation with federally recognized Native American tribes, which remains the FRA's responsibility under NEPA assignment.

The Authority shall ensure that the terms of this MOA, including the ATP and BETP, are incorporated in their entirety in all contracts, licenses, or other approvals for this Undertaking and shall ensure the completion of all measures specified in this MOA, including in the ATP and BETP.

The Authority shall ensure that it carries out its responsibilities under the PA (as may be amended from time to time) and any subsequent programmatic agreements regarding compliance with Section 106, to the extent such responsibilities are applicable to the Undertaking and in effect.

As an Invited Signatory, STB will receive all documentation related to this MOA and treatment plans, be provided the opportunity to review and comment on such documentation during the implementation of this MOA, and will be part of the ongoing consultation process during implementation of this MOA. The Authority will consider any comments made by STB prior to finalizing all MOA-associated documentation.

## **II. MODIFICATIONS TO THE AREA OF POTENTIAL EFFECTS**

In accordance with the PA, the APE was developed and agreed upon by the Authority and the SHPO, and accounts for potential impacts on both archaeological and built-environment resources that may result from the construction and operation of the Undertaking.

If modifications to the Undertaking, subsequent to the execution of this MOA, necessitate the revision of the APE, the Authority is responsible for informing the Signatories and Invited Signatory, consulting federally recognized Native American tribes, and other Consulting Parties within 15 days of identification of the needed changes in accordance with PA Stipulation VI. The Authority shall document the revised APE in an appropriate supplemental identification report (e.g., APE Modification Memo, addendum Archaeological Survey Report, and/or addendum Historic Architecture Survey Report). The SHPO will have 30 days to review the modified APE. If the SHPO objects to the modified APE, the Authority will revise the APE to address SHPO comments and resubmit for review. The SHPO will have 30 days to review and comment on this revised APE.

## **III. COMPLETION OF HISTORIC PROPERTIES IDENTIFICATION EFFORT PRIOR TO CONSTRUCTION**

The 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, including the ATP and BETP and PA Stipulation VI. The Authority will submit documentation of these efforts to the SHPO, Invited Signatory and other interested Consulting Parties for a 30-day review period. Prior to finalizing any inventory and evaluation documentation, the Authority shall consider the comments regarding identification efforts that are received through this consultation process.

Completion of the historic properties identification effort will be consistent with Stipulation VI (Identification of Historic Properties) and IX (Changes in Ancillary Area/Construction ROW) of the PA, including archaeological survey of areas not previously accessible/surveyed prior to construction. The Authority shall provide the Signatories, Invited Signatory and other Consulting Parties with the information necessary to document that efforts to identify and evaluate historic properties in the Undertaking's APE are sufficient to comply with 36 CFR § 800.4(b) and (c).

The Authority will ensure that addendum FOEs (aFOE) are prepared, in accordance with PA Stipulation VII, once supplemental historic property identification efforts are completed. The Authority will submit aFOEs to the Signatories, Invited Signatory and other Consulting Parties with an interest in the historic



property for a concurrent 30-day review period. The Authority shall take into consideration all comments regarding effects received within the review period prior to finalizing aFOEs for submission to the SHPO for review and concurrence. The SHPO shall have an additional 30 days to review final aFOE reports. If the SHPO makes no objection within the final 30-day review period, the findings for resources documented in the aFOE will become final. Should SHPO have any objections, the Authority will follow Stipulation VII.A, Dispute Resolution.

#### **IV. TREATMENT OF HISTORIC PROPERTIES IDENTIFIED IN THE APE**

This MOA outlines the Authority's commitments regarding the treatment of all historic properties, both currently known and yet-to-be-identified, that may be affected by the Undertaking. As allowed under Stipulation VI.C of the PA, this MOA includes provisions for treatment plans that include use of a combined archaeological testing and data recovery program. Two detailed historic property treatment plans have been prepared for the Undertaking: the ATP and the BETP.

The ATP (**Attachment 4**) describes treatments for effects on archaeological properties and Native American traditional cultural properties. The BETP (**Attachment 5**) describes the treatments for effects on the built environment resources. The work described in the treatment plans will be conducted prior to construction, during construction, and/or after construction of the Undertaking in the manner specified in the treatment plans. The treatments to historic properties known at the time of execution of this MOA are summarized in an impact/treatment table, organized by historic property, in **Attachment 3**. The treatment measures listed will be applied to historic properties affected in order to avoid, minimize, and/or mitigate effects of the Undertaking. The Authority shall implement and complete the treatment measures within two (2) years of completion of construction of the Undertaking, or earlier if so specified. The Authority shall ensure that sufficient time and funding are provided to complete all necessary preconstruction commitments before disturbances related to the Undertaking occur.

##### **A. Archaeological Treatment Plan**

The ATP describes in detail the methods that will be employed to complete the historic properties identification effort within the Undertaking's APE as part of the phased identification of archaeological resources. More specifically, the ATP builds upon the identification efforts completed to date and specifies where and under what circumstances further efforts to identify significant archaeological deposits will take place within the Undertaking's areas of physical impact.

The ATP also describes in detail the avoidance, minimization, and/or mitigation treatment measures for all currently known and yet-to-be-identified significant archaeological resources and Native American cultural resources affected by the Undertaking. Additional measures to avoid, minimize, or mitigate adverse effects on archaeological historic properties may be developed in consultation with Consulting Parties as identification and evaluation efforts are performed in future planning and construction phases of the Undertaking. The Authority commits to implementing the terms of the ATP.

The SHPO, the Invited Signatory and other Consulting Parties with an interest in archaeological resources shall have the opportunity to review and comment on cultural resources documentation specified in the ATP in accordance with Stipulation VI of this MOA.

## **B. Built Environment Treatment Plan**

The BETP provides detailed descriptions of treatment measures for built environment historic properties located within the APE that may be affected by the Undertaking. The treatments will be carried out by qualified professionals pursuant to Stipulation III of the PA. The treatment measures are included in the BETP and are intended to avoid, minimize, and/or mitigate adverse effects caused by the Undertaking. The Authority commits to implementing the terms of the BETP.

The Authority shall provide documentation produced under the BETP to the SHPO, the Invited Signatory and other Consulting Parties with an interest in historic properties included in the BETP for review and comment in accordance with Stipulation VI of this MOA.

## **C. Avoidance and Minimization Measures**

The Authority has identified property-specific and programmatic Impact Avoidance and Minimization Features (IAMF) to ensure the Undertaking would result in no adverse effect to 16 built historic properties, as outlined in the BETP (**Attachment 5**).

- a. The Authority will ensure that the IAMFs are incorporated into project design and construction contracts for the Undertaking.
- b. In consultation with SHPO, the Invited Signatory, and other Consulting Parties, the Authority will ensure that the IAMFs are implemented during the appropriate design and construction phases of the Undertaking.
- c. The Authority may revise the IAMFs or develop additional IAMFs to ensure the Undertaking would result in no adverse effects in accordance with Stipulation VII.B below, should project design changes result in new potential effects to previously identified historic properties or to additional historic properties within revised APEs.

## **V. POST-REVIEW DISCOVERIES**

If properties are discovered that may be historically significant or unanticipated effects on historic properties are found, the Authority shall follow the processes detailed in the ATP and BETP.

## **VI. PREPARATION AND REVIEW OF DOCUMENTS**

### **A. Professional Qualifications**

The Authority shall ensure that all cultural resources studies carried out pursuant to this MOA are performed by or under the direct supervision of personnel meeting *The Secretary of the Interior's Professional Qualifications Standards* (48 Federal Register 44738-39) in the disciplines of history, architectural history, historic architecture, and/or archaeology, as appropriate.

### **B. Confidentiality**

The Signatories and the Invited Signatory acknowledge that the handling of documentation regarding historic properties covered by this MOA are subject to the provisions of Section 304 of

the National Historic Preservation Act of 1966 (54 U.S.C. 307103) and Section 6254.10 of the California Government Code (Public Records Act).

### **C. Review**

Unless otherwise specified, parties to this MOA will have 30 calendar days from receipt to provide the Authority comments on all technical materials, findings, and other documentation arising from this MOA. If no comments are received from a party within the 30-calendar-day review period, the Authority may assume that the non-responsive party has no comment. The Authority shall take into consideration all comments received in writing within the 30-calendar-day review period and may make revisions before finalizing the documentation.

For documentation that is amended or revised, the Authority will prepare a comment and response summary or matrix and provide it to Signatories, Invited Signatory and other Consulting Parties.

If a party to this MOA objects to documentation provided for review within 30 calendar days of the receipt of any submissions, the Authority shall resolve the objection in accordance with Stipulation VII.A, below.

### **D. Electronic Submittals**

Unless otherwise requested, documentation produced under this MOA will be distributed electronically. Additionally, electronic mail may serve as an official method of communication regarding this MOA.

## **VII. ADMINISTRATIVE STIPULATIONS**

### **A. Dispute Resolution**

In accordance with Stipulation XVII of the PA, should any Signatory, Invited Signatory or other Consulting Party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Authority shall consult with such party to resolve the objection. If the Authority determines that such objection cannot be resolved, the Authority will:

1. Forward all documentation relevant to the dispute, including the Authority's proposed resolution, to the ACHP. The Authority will also provide a copy to all Signatories, the Invited Signatory and other Consulting Parties with a demonstrated interest in the affected property or subject of the dispute. The ACHP shall provide the Authority with its advice on the resolution of the objection within 30 days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Authority shall prepare a written response that takes into account any advice or comments regarding the dispute from the ACHP, Signatories, Invited Signatory and interested Consulting Parties, and provide them with a copy of this written response. The Authority will then proceed according to its final decision.
2. If the ACHP does not provide its advice regarding the dispute within the 30-day time period, the Authority may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Authority shall prepare a written response

that takes into account any comments regarding the dispute from the Signatories, Invited Signatory and other Consulting Parties with a demonstrated interest in the affected property or subject of the dispute and provide them and the ACHP with a copy of such written response.

3. 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.

## **B. Amendment and Revisions to Attachments**

This MOA may be amended by written agreement of the Signatories and Invited Signatory. Consulting parties shall be afforded 30 days to review and comment on any proposed amendments to this MOA. The Signatories and Invited Signatory shall take into consideration all timely comments received prior to executing an amendment. The amendment will be effective when all Signatories and Invited Signatory that signed the original agreement, sign a copy of the amendment.

The Authority will file a copy of any executed amendment with the ACHP pursuant to 36 CFR 800.6(c)(7).

Notwithstanding the prior paragraph, to address changes in the Undertaking or the treatment of historic properties affected by the Undertaking, the Authority may revise the ATP, the BETP, or other attachments to this MOA in consultation with the Signatories, Invited Signatory and other Consulting Parties, without executing a formal amendment to this MOA. The Authority shall provide proposed ATP or BETP revisions to the Signatories, Invited Signatory and other Consulting Parties with an interest in historic properties that may be affected by the proposed revisions for a 30-day review. The Signatories shall take into consideration all timely comments received prior to agreeing to the revisions. Upon the written concurrence of all the Signatories, such revisions to the ATP, the BETP, or other attachments shall take effect and be considered a part of this MOA.

## **C. Termination**

If any Signatory or Invited Signatory determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories and the Invited Signatory to attempt to resolve the issue under Stipulation VII.A, above, or to develop an amendment under Stipulation VII.B, above. If within 30 days (or another time period agreed to by all Signatories and Invited Signatory) an amendment cannot be reached, any Signatory or Invited Signatory may terminate this MOA upon written notification to the other Signatories and Invited Signatory. Termination hereunder shall render this MOA without further force or effect.

If this MOA is terminated, and the Authority determines that the Undertaking will proceed, the Authority must either execute a new MOA pursuant to 36 CFR § 800.6 prior to proceeding further with the Undertaking or follow the procedures for termination of consultation pursuant to 36 CFR § 800.7. The Authority shall notify the Signatories, Invited Signatory and other Consulting Parties as to the course of action it will pursue.

#### **D. Duration**

If the Authority determines that construction of the Undertaking has not been completed within 10 years following execution of this MOA, the Signatories and Invited Signatory shall consult to reconsider its terms. Reconsideration may include continuation of the MOA as originally executed, amendment, or termination.

This MOA will be in effect through the Authority's implementation of the Undertaking and will terminate and have no further force or effect when the Authority, in consultation with the other Signatories and Invited Signatory, determines that the terms of this MOA have been fulfilled in a satisfactory manner. The Authority shall provide the other Signatories and Invited Signatory with written notice of its determination and of termination of this MOA.

#### **E. Annual Reporting and Meetings**

The Authority shall prepare an annual report documenting the implementation of the actions taken under this MOA as stipulated in the PA Section XVII.C. The annual report shall include specific lists of studies, reports, actions, evaluations, and consultation and outreach efforts related to implementation of this MOA. The Authority will provide the annual report to the SHPO, Invited Signatory and other Consulting Parties. If requested by the SHPO, Invited Signatory and other Consulting Parties, the Authority will coordinate a meeting or call to discuss the annual report.

### **VIII. EFFECTIVE DATE AND EXECUTION**

This MOA may be executed in counterparts, with a separate page for each Signatory, and will take effect on the latest date of execution by the Authority and SHPO. STB's signature is not required to execute this MOA or for its effectiveness. Separate concurrence pages may also be provided for each Concurring Party. The Authority shall ensure that each Signatory, Invited Signatory, and each Concurring Party is provided with a copy of the fully executed MOA. The refusal of STB or any Concurring Party to sign this MOA shall not invalidate this MOA or prevent this MOA from taking effect.

Execution of this MOA by the Authority and SHPO and implementation of its terms evidence that the Authority has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

**MEMORANDUM OF AGREEMENT**  
**AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,**  
**AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**  
**REGARDING THE SAN JOSE TO MERCED PROJECT SECTION OF THE**  
**CALIFORNIA HIGH-SPEED RAIL PROGRAM**  
**SANTA CLARA, SAN BENITO, AND MERCED COUNTIES, CALIFORNIA**

**SIGNATORIES:**

**CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

By:   
Brian P. Kelly  
Chief Executive Officer

Date: 2/17/22

**CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

By:   
Julianne Rolanco  
State Historic Preservation Officer

Date: 3/11/2022

**INVITED SIGNATORY:**

**SURFACE TRANSPORTATION BOARD**

By: \_\_\_\_\_  
Danielle Gosselin  
Acting Director, Office of Environmental Analysis

Date: \_\_\_\_\_

**MEMORANDUM OF AGREEMENT  
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,  
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE SAN JOSE TO MERCED PROJECT SECTION OF THE  
CALIFORNIA HIGH-SPEED RAIL PROGRAM  
SANTA CLARA, SAN BENITO, AND MERCED COUNTIES, CALIFORNIA**

**SIGNATORIES:**

**CALIFORNIA HIGH-SPEED RAIL AUTHORITY**

By:   
Brian P. Kelly  
Chief Executive Officer

Date: 2/17/22

**CALIFORNIA STATE HISTORIC PRESERVATION OFFICER**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Julianne Polanco  
State Historic Preservation Officer

**INVITED SIGNATORY:**

**SURFACE TRANSPORTATION BOARD**

By:  Date: March 4, 2022

Danielle Gosselin  
Director, Office of Environmental Analysis

**MEMORANDUM OF AGREEMENT  
AMONG THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY, THE SURFACE TRANSPORTATION BOARD,  
AND THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER  
REGARDING THE SAN JOSE TO MERCED PROJECT SECTION OF THE  
CALIFORNIA HIGH-SPEED RAIL PROGRAM  
SANTA CLARA, SAN BENITO, AND MERCED COUNTIES, CALIFORNIA**

**CONCURRING PARTIES:**

**CITY OF SAN JOSE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name  
Title

**SAN JOSE HISTORICAL LANDMARKS COMMISSION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name  
Title

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name  
Title

**CITY OF GILROY**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name  
Title



**AMAH MUTSUN TRIBAL BAND**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Valentin Lopez  
Chairperson

**AMAH MUTSUN TRIBAL BAND OF MISSION SAN JUAN BAUTISTA**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Irenne Zwierlein  
Chairperson


**INDIAN CANYON MUTSUN BAND OF COSTANOAN**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ann-Marie Sayers  
Chairperson

**NORTH VALLEY YOKUTS TRIBE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Katherine Perez  
Chairperson

**TAMIEN NATION**

By:  \_\_\_\_\_ Date: 03/16/2022  
Quirina Luna Geary  
Chairperson

**ATTACHMENT 3: HISTORIC PROPERTIES WITHIN THE AREA OF POTENTIAL EFFECTS AS LISTED IN THE FINDING OF EFFECT REPORT**

**Built Environment Historic Properties within the San Jose to Merced Project Section Area of Potential Effects**

Property Name and Address	City, County	Effects Finding	Treatment Measures <sup>1</sup>
Santa Clara Railroad Historical Complex 1 Railroad Avenue	Santa Clara, Santa Clara	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—Worker Environmental Awareness Program (WEAP) Training Session CUL-IAMF #6—Pre-Construction Conditions Assessment Report (Pre-CCAR), Plan for Protection & Stabilization and Response Plan for Unanticipated Effects & Inadvertent Damage (PPSRP), and Post Conditions Assessment Report (Post-CCAR) CUL-IAMF #7—Built Environment Monitoring Plan CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Southern Pacific Depot 65 Cahill Street	San Jose, Santa Clara	Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #7—Built Environment Monitoring Plan CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM#5—Prepare Additional Documentation CUL-MM#7—Prepare Interpretive Materials CUL-MM #10—Station Design Consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (SOI Standards)
Sunlite Baking Company 145 S. Montgomery Street	San Jose, Santa Clara	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Pacific Intertie Transmission Line n/a	Santa Clara & Merced	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Madrone Underpass Monterey Street	Morgan Hill, Santa Clara	Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-MM#5—Prepare Additional Documentation CUL-MM#7—Prepare Interpretive Materials
Villa Mira Monte 17860 Monterey Street	Morgan Hill, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-MM#5—Prepare Additional Documentation CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage

Property Name and Address	City, County	Effects Finding	Treatment Measures <sup>1</sup>
San Martin Winery 13000 Depot Street	San Martin, Santa Clara	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #7—Built Environment Monitoring Plan CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Hoenck House 9480 Murray Avenue	Gilroy, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
IOOF Orphanage School 290 IOOF Avenue	Gilroy, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Live Oak Creamery		Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-MM#5—Prepare Additional Documentation CUL-MM#7—Prepare Interpretive Materials
Southern Pacific Train Station 7250 Monterey Street	Gilroy, Santa Clara	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #7—Built Environment Monitoring Plan CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage CUL-MM #10—Station Design Consistent with the SOI Standards
Horace Willson House 1980 Pacheco Pass Highway	Gilroy, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Ellis Ranch 4945 Frazier Lake Road	Gilroy, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Millers Canal n/a	Gilroy, Santa Clara	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #7—Built Environment Monitoring Plan CUL-IAMF #8—Implement Protection and/or Stabilization Measures

Property Name and Address	City, County	Effects Finding	Treatment Measures <sup>1</sup>
Pacheco California Department of Forestry Station 12280 Pacheco Pass Highway	Santa Clara County	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
California Aqueduct n/a	Volta/Los Banos Merced	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Delta-Mendota Canal n/a	Los Banos Merced	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
San Joaquin and Kings River— Main Canal n/a	Los Banos Merced	No Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #2—WEAP Training CUL-IAMF #6—Pre-CCAR, PPSRP, Post-CCAR CUL-IAMF #8—Implement Protection and/or Stabilization Measures CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Cottani Family Property 23109 Henry Miller Road	Los Banos Merced	No Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #6—PPSRP only CUL-MM #8—Implement Procedures for Unanticipated Effects and Inadvertent Damage
Negra Ranch 21810 W. Henry Miller Avenue	Los Banos Merced	Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-MM#5—Prepare Additional Documentation CUL-MM#7—Prepare Interpretive Materials
Cozzi Family Property 23109 Henry Miller Road	Los Banos Merced	Adverse Effect	CUL-IAMF #1—Geospatial Data Layer and Mapping CUL-IAMF #4—Prepare Relocation Plan, Historic Structures Report, Implement Relocation Plan CUL-MM#5—Prepare Additional Documentation CUL-MM#7—Prepare Interpretive Materials

<sup>1</sup> The full text of these measures can be found in the EIR/EIS and will be attached to any NEPA Record of Decision as a part of the Mitigation Monitoring and Enforcement Plan (MMEP)

**Archaeological Historic Properties within the San Jose to Merced Project Section Area of Potential Effects**

Trinomial	Resource Type	Attributes	Effect Finding	Treatment Measures
CA-SCL-30/H <sup>1</sup>	Contact Period Structures	The third location of Mission Santa Clara de Asis, also known as the Murguiá Mission	Phased	<u>Applies to all archaeological historic properties:</u>
CA-SCL-338H <sup>1</sup>	Historic Buildings	Site of Fisher Ranch or Fisher's Coyote Ranch headquarters, bar, main house, outbuildings, 1850-1960s; [REDACTED]	Phased	
CA-SCL-855	Historic artifacts	Former SPRR-UPRR Yards; refuse scatter in demolished railroad yard	Phased	Inventory (Addenda ASRs)
CA-SCL-690	Pre-contact cemetery	Pre-contact cemetery, with remains largely reburied on-site	Phased	Evaluation (AEPs/AERs)
N/A (P-43-2234)	Historic artifacts	Redeposited historic-period artifact scatter	Phased	Data Recovery (Archaeological Data Recovery Reports)
N/A (P-43-1842)	Demolished historical structures	Dairy farm complex, circa 1915–1940; all structures now demolished.	Phased	Archaeological Monitoring Plan
CA-SCL-448	Pre-contact artifacts	Shell scatter	Phased	Avoidance/Protection Measures/Best Management Practices
CA-SCL-334	Demolished historical structures	Residence and water tower, circa 1890 farmstead, structures now demolished.	Phased	
CA-SCL-161	Pre-contact artifact	Isolate consisting of one chert flake	Phased	Cultural Resources Awareness Training
CA-SCL-167	Pre-contact artifacts	Lithic scatter	Phased	
CA-SCL-168	Pre-contact artifacts	Lithic scatter	Phased	Archaeological/Native American Monitoring
CA-SCL-169	Pre-contact artifacts	Lithic scatter	Phased	Observation of Protocols for Unanticipated Discoveries
CA-SCL-838	Pre-contact habitation and human remains	Occupation site and burials	Phased	
N/A	Unknown	Unknown possible resource; based on Information Center mapping.	Phased	Additional measures to avoid, minimize, or mitigate effects on archaeological historic properties may be developed in consultation with signatories and consulting parties as identification and evaluation efforts are
N/A (P-43-1737/1765)	Pre-contact artifacts	Pre-contact stone tool scatter at D.G. Brewer farm	Phased	
N/A (P-43-1283)	Pre-contact and historic artifacts	Pre-contact and historic-period artifact scatter	Phased	
N/A (P-43-1757)	Removed historical structure	Fourteen Mile House, circa 1870–1890 stage station: structure now removed.	Phased	
CA-SCL-571	Pre-contact artifacts	Stone tool scatter	Phased	

Trinomial	Resource Type	Attributes	Effect Finding	Treatment Measures
CA-SCL-573	Pre-contact artifacts and human remains	Recorded at two locations. Pre-contact burial	<b>Phased</b>	performed in future planning and construction phases of the Undertaking.
CA-SCL-576	Pre-contact artifacts	Lithic scatter	<b>Phased</b>	
CA-SCL-626	Historical structure	Residential structure with historic-period artifact scatter	<b>Phased</b>	
N/A (P-1465)	Historical structures	Pinard Hotel and Saloon location, circa 1890–1895; structures now demolished; associated with 18-Mile House (Madrone) stage station, circa 1858.	<b>Phased</b>	
N/A (P-43-1463)	Historical structure	Pinard House location, circa 1895; structure now demolished.	<b>Phased</b>	
CA-SCL-670	Historical structure	Will Bone House, circa 1899, and historical archaeological remains	<b>Phased</b>	
CA-SCL-673H	Historical structure	Historic structure with associated artifact scatter	<b>Phased</b>	
CA-SCL-722	Pre-contact artifacts	Scatter of fire-cracked rock and lithics	<b>Phased</b>	
CA-SCL-560	Historical structures	Fitzgerald-Allemand Farm, circa 1867–1900 farmstead; refuse scatter and possible features.	<b>Phased</b>	
CA-SCL-116	Pre-contact artifacts	Waste flake scatter	<b>Phased</b>	
CA-SCL-117	Pre-contact habitation	Occupation site	<b>Phased</b>	
CA-SCL-118	Pre-contact habitation and human remains	Occupation site with burials	<b>Phased</b>	
CA-SCL-123	Pre-contact habitation	Occupation site	<b>Phased</b>	
CA-SCL-301	Pre-contact processing	Processing site	<b>Phased</b>	
CA-MER-322	Pre-contact artifacts	Stone tool scatter	<b>Phased</b>	

<sup>1</sup> Denotes a site that has been formally determined NRHP-eligible.

ASR = Archaeological Survey Report  
AEP = Archaeological Evaluation Plan  
AER = Archaeological Evaluation Report  
SPRR = Southern Pacific Railroad  
UPRR = Union Pacific Railroad

## **ATTACHMENT 6: AGENCIES AND OTHER INTERESTED PARTIES CONSULTED**

State Historic Preservation Officer  
Surface Transportation Board  
City of San Jose  
San Jose Historical Landmarks Commission  
Santa Clara Valley Transportation Authority  
Morgan Hill Historical Society  
City of Gilroy



## **ATTACHMENT 7: NATIVE AMERICAN TRIBAL GOVERNMENTS CONSULTED**

Amah Mutsun Tribal Band  
Amah Mutsun Tribal Band of Mission San Juan Bautista  
Indian Canyon Mutsun Band of Costanoan  
North Valley Yokuts Tribe  
Tamien Nation

\* Federally-recognized tribes are noted with an asterik. No asterik denotes that none of the above tribes were federally-recognized at the time of the MOA.