

**FIRST ADDENDUM TO THE PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT, AS IT PERTAINS TO THE ADMINISTRATION OF THE
FEDERAL-AID HIGHWAY PROGRAM IN CALIFORNIA**

WHEREAS, the Federal Highway Administration (FHWA), the California State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and the California Department of Transportation (Caltrans) executed a Programmatic Agreement (Agreement), executed on December 30, 2003, regarding the Federal Aid Highway Program in California; and

WHEREAS, the Agreement established that the California Division Administrator, FHWA is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of California complies with Section 106 of the National Historic Preservation Act, as amended (NHPA), and codified at its implementing regulations, 36 CFR Part 800, and effective January 11, 2001; and

WHEREAS, pursuant to the June 7, 2007 "Memorandum of Understanding between the FHWA, California Division and Caltrans, Assumption of Responsibility for Categorical Exclusions" (MOU) prepared in accordance with Section 6004(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-059), codified as Section 326 as amended Chapter 3 of title 23 United States Code, the Secretary of the United States Department of Transportation, acting by and through the FHWA, assigned to Caltrans the responsibility for compliance with Section 106 of the NHPA for projects covered by the MOU; and

WHEREAS, FHWA, SHPO, the ACHP and Caltrans have consulted to enter into this First Addendum to the Agreement to recognize that the Chief of the Division of Environmental Analysis at Caltrans is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of California complies with Section 106 of the NHPA for projects covered by the MOU; and

NOW, THEREFORE, FHWA, SHPO, the ACHP and Caltrans agree that the Agreement shall be addended as follows:

STIPULATIONS

- I. Where the Agreement specifies FHWA responsibilities for compliance with Section 106 of the NHPA, the Caltrans Division of Environmental Analysis, Cultural and Community Studies Office shall assume those responsibilities, except as provided in stipulations II and II below.
- II. In accordance with Stipulation IV.A of the Agreement, FHWA shall retain responsibility for conducting direct government to government consultation with Indian tribes.
- III. FHWA shall assume responsibility for compliance with Section 106 of the NHPA and the Agreement for any project it determines should be excluded from the MOU pursuant to Section X.B of the MOU.
- IV. This First Addendum shall take effect following execution by FHWA, SHPO, the ACHP, and Caltrans and shall remain in effect until the MOU expires or is terminated, or the Agreement expires or is terminated, whichever occurs first.

SIGNATORY PARTIES

Federal Highway Administration

By: Gene K. Fong Date: 8/6/07
Gene K. Fong, California Division Administrator

California State Historic Preservation Officer

By: Steph D. Wilkes Date: 8/6/07
M. Wayne Donaldson, State Historic Preservation Officer

Advisory Council on Historic Preservation

By: John M. Fowler Date: 9/28/07
John M. Fowler, Executive Director

California Department of Transportation

By: Will Kempton Date: 8/21/07
Will Kempton, Director

**SECOND ADDENDUM TO THE PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT, AS IT PERTAINS TO THE ADMINISTRATION OF THE
FEDERAL-AID HIGHWAY PROGRAM IN CALIFORNIA**

WHEREAS, the Federal Highway Administration (FHWA), the California State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (ACHP), and the California Department of Transportation (Caltrans) executed a Programmatic Agreement (Agreement), executed on December 30, 2003, regarding the Federal Aid Highway Program in California; and

WHEREAS, the Agreement established that the California Division Administrator, FHWA is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of California complies with Section 106 of the National Historic Preservation Act, as amended (NHPA), and codified at its implementing regulations, 36 CFR Part 800, and effective January 11, 2001; and

WHEREAS, the July 1, 2007 "Memorandum of Understanding between the Federal Highway Administration and the California Department of Transportation Concerning the State of California's Participation in the Surface Transportation Project Delivery Pilot Program" (MOU) prepared in accordance with Section 6005(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-059), codified as Section 327 as amended Chapter 3 of Title 23 United States Code (23 U.S.C. 327) officially approves Caltrans' application to participate in the Pilot Program, and is the written agreement required by 23 U.S.C. 327(a)(2)(A) and (c) under which the Secretary of the United States Department of Transportation (USDOT Secretary) may assign, and Caltrans may assume, the USDOT Secretary's responsibilities for federal environmental laws with respect to one or more highway projects within California, including Section 106 of the NHPA; and

WHEREAS, FHWA, SHPO, the ACHP and Caltrans have consulted to enter into this Second Addendum to the Agreement to recognize that the Chief of the Division of Environmental Analysis at Caltrans is the "Agency Official" responsible for ensuring that the Federal-aid Highway Program in the state of California complies with Section 106 of the NHPA; and

NOW, THEREFORE, FHWA, SHPO, the ACHP and Caltrans agree that the Agreement shall be addended as follows:

STIPULATIONS

- I. Where the Agreement specifies FHWA responsibilities for compliance with Section 106 of the NHPA, the Caltrans Division of Environmental Analysis, Cultural and Community Studies Office shall assume those responsibilities, except as provided in stipulations II and III below.
- II. In accordance with Stipulation IV.A of the Agreement, FHWA shall retain responsibility for conducting direct government to government consultation with Indian tribes.
- III. FHWA shall retain responsibility for projects specifically excluded from delegation to the state in Part 3, Section 3.1 of the MOU; and FHWA will assume responsibility for compliance with Section 106 of the NHPA and the Agreement for any project for which FHWA resumes responsibility pursuant to Part 9 of the MOU.

- IV. This Second Addendum shall take effect following execution by FHWA, SHPO, the ACHP, and Caltrans and shall remain in effect until the MOU expires or is terminated, or the Agreement expires or is terminated, whichever occurs first.

SIGNATORY PARTIES

Gene R. Fong, California Division Administrator

California State Historic Preservation Officer

By: Steph D. Wilson Date: 8/6/07
M. Wayne Donaldson, State Historic Preservation Officer

Advisory Council on Historic Preservation

By: John M. Fowler Date: 9/28/07
John M. Fowler, Executive Director

California Department of Transportation

By: Will Kempton Date: 8/21/07
Will Kempton, Director