

**APPENDIX E**  
**PLACER PARKWAY**  
**PROGRAMMATIC AGREEMENT**



**DEPARTMENT OF TRANSPORTATION**

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2 7.11.2006



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July 5, 2006

Gene Fong  
Federal Highway Administration  
650 Capitol Mall, Suite 4-100  
Sacramento, CA 958144-4708  
Attn: Gary Sweeten

Dear Mr. Fong

The Federal Highway Administration (FHWA) and California Department of Transportation (Caltrans) are working with the Placer County Transportation Planning Agency (PCTPA) on the Placer Parkway Project. PCTPA proposes to identify and acquire right-of-way for the purpose of preserving a corridor for a future Placer Parkway, an east-west connection between State Route (SR) 65 near Lincoln in Placer County and SR 70/99 in southern Sutter County. Our agencies are working together to produce a Tier 1 Environmental Impact Statement (EIS), pursuant to the National Environmental Policy Act (NEPA) that will evaluate several corridor alternatives and will lead to the selection of one corridor for right-of-way preservation.

As a Federal undertaking, this project also requires compliance with Section 106 of the National Historic Preservation Act (NHPA). Pursuant to 36 CFR 800, the regulations implementing Section 106 of the NHPA, we have prepared a draft Programmatic Agreement that will govern Section 106 compliance responsibilities associated with implementing this undertaking. If FHWA agrees with this proposed PA, please forward the attached documentation to the California State Historic Preservation Officer for his review. Caltrans and PCTPA staff are available to meet with the SHPO to explain the undertaking in more detail if that is helpful.

Should you require any additional project information, please contact Erick Wulf at (916) 274-0563 or [erick.wulf@dot.ca.gov](mailto:erick.wulf@dot.ca.gov) or Anmarie Medin at (916) 274-584 or [anmarie.medin@dot.ca.gov](mailto:anmarie.medin@dot.ca.gov). Thank you in advance for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Japtej Gill".

JAPTEJ GILL

Chief, Environmental Planning, S4

c: Stan Tidman, Placer County Transportation Planning Agency

bc: EWulf, AMedin

**PROGRAMMATIC AGREEMENT**

**BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION AND  
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER  
REGARDING IMPLEMENTATION OF THE PLACER PARKWAY PROJECT,  
PLACER COUNTY, CALIFORNIA**

**WHEREAS**, the Federal Highway Administration (FHWA) and the California Department of Transportation (Caltrans), in cooperation with the Placer County Transportation Planning Agency (PCTPA), propose to identify and acquire right-of-way for the purpose of preserving a corridor for a future Placer Parkway, an east-west connection between State Route (SR) 65 near Lincoln in Placer County and SR 70/99 in southern Sutter County (Undertaking); and,

**WHEREAS**, the FHWA is preparing a Tier 1 Environmental Impact Statement (EIS), pursuant to the National Environmental Policy Act (NEPA), 42 USC 4321 *et seq.*, that will evaluate several corridor alternatives and will lead to the selection of one corridor for right-of-way preservation; and

**WHEREAS**, given the existing and projected rapid growth in and around the project study area, the FHWA has determined it is vital to identify a corridor as early as feasible so that local jurisdiction planning decisions can consider the future Placer Parkway and before new development reduces corridor options and/or increase right-of-way acquisition costs for the Undertaking; and,

**WHEREAS**, the FHWA has determined that a phased approach for compliance with Section 106 of the NHPA is appropriate for the Undertaking, such that completion of the identification of historic properties, determinations of specific effects in historic properties, and resolution of any adverse effects will be carried out as part of planning for and prior to the approval of specific Tier 2 undertakings; and,

**WHEREAS**, the FHWA has consulted with the California State Historic Preservation Officer (SHPO) pursuant to the 1 January 2004 *Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* (PA), and where the PA so directs, in accordance with 36 CFR Part 800, the regulations that implement Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470f), regarding the Undertaking's potential effects on historic properties; and,

**WHEREAS**, following the completion of Tier 1 EIS, the FHWA, as funding becomes available for design and construction, will conduct Tier 2 environmental studies to analyze the environmental impacts of different alignments within the selected corridor in order to determine the specific transportation facility 'footprint' within the corridor, including project-level compliance with the Section 106 process to determine specific impacts to historic properties as

well as opportunities for avoidance, minimization of harm, and appropriate mitigation, if required, for the Undertaking; and,

**WHEREAS**, the FHWA desires to enter into a Programmatic Agreement (Agreement) at this time in order to establish a framework for conducting Section 106 consultation for Tier 1 and Tier 2; and,

**WHEREAS**, Caltrans has participated in consultation and has been invited to be a signatory to this Agreement; and

**WHEREAS**, PCTPA has participated in consultation and has been invited to be a signatory to this Agreement; and

**WHEREAS**, the Advisory Council on Historic Preservation (ACHP) has been afforded the opportunity to participate in the Section 106 process and has not elected to participate; and,

**WHEREAS**, Caltrans, on behalf of the FHWA, has initiated consultation with the Shingle Springs Band of Miwok Indians, Todd Valley Miwok-Maidu Cultural Foundation, Maidu Elders Organization, and Enterprise Rancheria of Maidu Indians, as well as with the following federally-recognized Indian Tribes: United Auburn Indian Community (Tribes).

**WHEREAS**, the FHWA has involved, and will continue to involve, the public and historic interest groups, as stipulated under NEPA and the NHPA in a manner consistent with the PA and Caltrans' public involvement procedures;

**NOW, THEREFORE**, the FHWA and the SHPO agree that, upon the FHWA's decision to proceed with the Undertaking, the FHWA shall ensure that the Undertaking is implemented in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties; and further agree that these stipulations shall govern the Undertaking and all of its parts until this Agreement expires or is terminated.

## **STIPULATIONS**

The FHWA will ensure that the following stipulations are implemented:

### **I. DEFINITIONS**

The definitions set forth at 36 CFR § 800.16 are applicable throughout this Agreement.

### **II. TIER 1 PHASED IDENTIFICATION OF HISTORIC PROPERTIES**

#### **A. Area of Potential Effects**

1. The Undertaking's area of potential effects (APE) for Tier 1 is situated in southwest Placer County, between Highways 65 and 70, north of Baseline Road and south of Sunset Boulevard West (attachment A to this Agreement).

2. If modifications to the Undertaking, subsequent to the execution of this Agreement, necessitate the revision of the APE, Caltrans will consult with the PCTPA, the FHWA, and the SHPO to facilitate mutual agreement on the subject revisions. If Caltrans, the PCTPA, the FHWA, and the SHPO cannot reach such agreement, then the parties of this Agreement shall resolve the dispute in accordance with stipulation VIII.C below. If Caltrans, the PCTPA, the FHWA, and the SHPO reach mutual agreement on the proposed revisions, then Caltrans will submit a final map of the revisions, consistent with the requirements of stipulations VIII.A and XVI.A of the PA, no later than 30 days following such agreement.

**B. Phased Identification of Historic Properties**

1. Areas Common to all Alternatives/Corridors: the FHWA shall ensure that PCTPA or its consultants inventory properties within the area(s) common to all Tier 1 corridors according to the following specifications:
  - a. Archaeological Properties
    - (1) Conduct an inventory of archaeological properties where access has been secured in areas that have not previously been surveyed and those areas deemed by Caltrans PQS in need of resurvey because of the age or condition of the previous survey. Archaeological properties will be identified in accordance with stipulation VIII.B and C of the PA, and documented on appropriate DPR 523 inventory forms.
  - b. Built Environment Properties
    - (1) Conduct a limited inventory of built environment properties within the entire Tier 1 APE. Built environment properties that have the potential to meet NRHP Criterion C will be identified and evaluated in accordance with stipulation VIII.B and C of the PA, and documented on appropriate DPR 523 inventory forms. Other built environment properties within the APE that meet the age and integrity criteria will be inventoried and evaluated during Tier 2 studies, as provided for in stipulation III of this Agreement.
2. Areas Unique to Specific Alternatives/Corridors: the FHWA shall ensure that PCTPA or its consultants inventory properties within the area(s) unique to specific Tier 1 alternatives/corridors according to the following specifications:
  - a. Archaeological Properties
    - (1) Complete a records search for the Tier 1 APE and prepare a predictive model utilizing environmental factors and historic land-use data to assess the archaeological sensitivity of the project corridors including potential for buried resources. Segments of Tier 1 alignments/corridors that are not in common will be inventoried for archaeological properties during Tier 2 studies, as provided for in stipulation III of this Agreement.
  - b. Built Environment Properties
    - (1) Conduct a limited inventory of built environment properties within the entire Tier 1 APE. Built environment properties that have the potential to meet NRHP Criterion C will be identified and evaluated

in accordance with stipulation VIII.B and C of the PA, and documented on appropriate DPR 523 inventory forms. Other built environment properties within the APE that meet the age and integrity criteria will be inventoried and evaluated during Tier 2 studies, as provided for in stipulation III of this Agreement.

3. Tier 1 Reporting and SHPO Consultation
  - a. The FHWA shall ensure that PCTPA or its consultants prepare documentation of their findings and determinations pursuant to stipulation XVI of the PA. The reports shall be submitted to Caltrans PQS for review and approval pursuant to stipulation XVI of the PA.
  - b. Eligibility determinations shall be submitted to SHPO pursuant to stipulation VIII.C(5) of the PA.

**C. Phased Assessment of Effects**

1. The FHWA shall assess the potential for Tier 1 of the Undertaking to effect historic properties in accordance with stipulation X of the PA. As Tier 1 is defined as acquisition of property, the FHWA anticipates there will be no adverse effects during Tier 1. The FHWA shall consult with SHPO on the effect finding pursuant to stipulation X of the PA.

**III. TIER 2 PHASED SECTION 106 CONSULTATION**

**A. Area of Potential Effects:** The objective of the Tier 1 EIS is to identify and preserve an approximate 500' - to 1,000' -wide corridor for acquisition. The Tier 1 EIS will focus on broad topics such as general location, mode choice, area-wide air quality and land use, and other environmental issues. Once the corridor is selected, the subsequent Tier 2 environmental review, relying on the work from the Tier 1 EIS, will provide a more detailed analysis of the environmental impacts for the future transportation facility alignment alternatives within the selected corridor. Once a Tier 2 preferred alternative is chosen, the FHWA and PCTPA will delimit an APE for the Tier 2 preferred alternative in accordance with stipulation VIII.A of the PA. If subsequent modifications to the APE are necessary, the FHWA shall follow the procedures of stipulation II.A(2) of this Agreement.

**B. Phased Identification and Evaluation.**

1. Archaeological Properties
  - a. The FHWA shall ensure that PCTPA or its consultants conducts a pedestrian reconnaissance of all lands within the final APE for any Tier 2 preferred alternative. Archaeological properties will be identified and evaluated in accordance with stipulation VIII.B and C of the PA, and documented on appropriate DPR 523 inventory forms.
2. Built Environment Properties
  - a. The FHWA shall ensure that PCTPA or its consultants conducts an inventory of built environment properties within the final APE for any Tier 2 preferred alternative. Built environment properties will be

evaluated for NRHP eligibility in accordance with stipulation VIII.(B) and (C) of the PA, and documented on appropriate DPR 523 inventory forms.

3. Tier 2 Reporting and SHPO Consultation

- a. The FHWA shall ensure that PCTPA or its consultants prepare documentation of their findings and determinations pursuant to stipulation XVI of the PA. The reports will be submitted to Caltrans PQS for review and approval pursuant to stipulation XVI of the PA.
- b. Eligibility determinations shall be submitted to SHPO pursuant to stipulation VIII.C(5) of the PA.

- C. **Assessment of Effects.** The FHWA will assess any Tier 2 preferred alternative for its potential to affect historic properties and will consult with the SHPO pursuant to stipulation IX and X of the PA. Should FHWA find that any Tier 2 preferred alternative will result in an adverse effect, FHWA shall consult with SHPO pursuant to stipulation XI of the PA.
- D. **Applicable Requirements.** FHWA will conduct the Section 106 process during Tier 2 in accordance with stipulations of the PA and applicable requirements under Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and the Section 106 regulations (36 C.F.R. Part 800), including any subsequent amendments thereto. Nothing in this Agreement is intended to supersede or modify any requirement contained in the Section 106 statute or the Section 106 regulations.
- E. **Consulting Parties.** During Tier 2, the same party may be designated as a consulting party for more than one alternative. FHWA will ensure comments of all consulting parties are incorporated into the Section 106 consultation process as provided for in all applicable laws.

#### IV. TIER 2 SECTION 106 COMMITMENTS AND CONCEPTUAL MITIGATION

- A. FHWA and PCTPA agree to implement and/or fund the activities listed in this section as part of any Tier 2 environmental studies. Additional commitments may be made, as appropriate, as an outcome of the Section 106 consultation process for any Tier 2 alternative.
- B. **Avoidance and Minimization of Impacts**
  1. In General. In accordance with the consultation process required under Section 106 and in accordance with other applicable laws, FHWA, PCTPA, and Caltrans will seek ways to avoid, minimize, and mitigate adverse impacts to the environment, including adverse effects to historic properties.
  2. Context-Sensitive Solutions. FHWA, PCTPA, and Caltrans will apply the principles of context-sensitive solutions during project development, in accordance with applicable Caltrans policies. In accordance with those principles and where appropriate, FHWA, PCTPA, and Caltrans will develop any Tier 2 alternative with sensitivity to aesthetic values and the historic context, utilizing the services of professionals with experience in areas related to historic preservation.

- C. Should implementation of any Tier 2 alternative result in adverse effects to a historic property important solely for its information value (Criterion D), FHWA will ensure a data recovery plan is prepared according to guidance in Attachment 6 of the PA and submitted to the SHPO for review in accordance with stipulation II.C(3) of this Agreement.
- D. The FHWA will not authorize the execution of any Undertaking activity that may effect (36 CFR § 800.16(i)) historic properties in the Undertaking's APE prior to the completion of the Section 106 process provided for in this Agreement.

## V. NATIVE AMERICAN CONSULTATION

The FHWA has consulted with the Tribes regarding the proposed Undertaking, will continue to consult with the Tribes, and will afford the Tribes, should the Tribe so desire, the further opportunity to more directly and actively participate in the implementation of the Undertaking; Should any specific Tribe desire to participate in this Agreement as herein set forth, the FHWA shall consult with them to reach consensus regarding the manner in which the Tribe may participate in the implementation of this Agreement and the Undertaking, and regarding any time frames or other matters that may govern the nature, scope, and frequency of such participation.

## VI. TREATMENT OF HUMAN REMAINS

The Agreement parties agree that human burials and related items discovered during implementation of the terms of this Agreement and of the Undertaking will be treated in accordance with the requirements of § 7050.5(b) of the California Health and Safety Code. If, pursuant to § 7050.5(c) of the Code, the county coroner or medical examiner determines that the human remains are or may be of Native American origin, then the discovery shall be treated in accordance with the provisions of §§ 5097.98(a)-(d) of the California Public Resources Code.

## VII. DISCOVERIES AND UNANTICIPATED EFFECTS

If the FHWA determines, after any future construction of the Undertaking has commenced, that the Undertaking will affect a previously unidentified property that may be eligible for the National Register, or affect a known historic property in an unanticipated manner, the FHWA will address the discovery or unanticipated effect in accordance with 36 CFR § 800.13(b)(3). The FHWA at its discretion may hereunder, and pursuant to 36 CFR § 800.13(c), assume any discovered property to be eligible for inclusion in the National Register.

## VIII. ADMINISTRATIVE PROVISIONS

### A. PROFESSIONAL QUALIFICATIONS AND STANDARDS

1. **Professional Qualifications.** All activities prescribed by stipulations II, III, IV, V, VI, and VII of this Agreement shall be carried out under the authority of the FHWA by or under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's *Professional Qualifications Standards* (48 FR 44738-39) (PQS) in the appropriate disciplines. However, nothing in this stipulation may be interpreted to preclude the FHWA or any

agent or contractor thereof from using the properly supervised services of persons who do not meet the PQS.

2. **Documentation Standards.** Written documentation of activities prescribed by stipulations II, III, IV, V, VI, and VII of this Agreement shall conform to *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 FR 44716-44740) as well as to applicable standards and guidelines established by the SHPO.
3. **Curation and Curation Standards.** The FHWA shall ensure that, to the extent permitted under §§ 5097.98 and 5097.991 of the California Public Resources Code, the materials and records resulting from the activities prescribed by this Agreement are curated in accordance with 36 CFR Part 79. The FHWA will ensure that, to the extent permitted by applicable law and regulation, the views of the Most Likely Descendant(s) are taken into consideration when decisions are made about the disposition of other Native American archaeological materials and records.

**B. CONFIDENTIALITY.** The Agreement parties acknowledge that historic properties covered by this Agreement are subject to the provisions of section 304 of the NHPA, and section 6254.10 of the California Government Code (Public Records Act), relating to the disclosure of archaeological site information and, having so acknowledged, will ensure that all actions and documentation prescribed by this Agreement are consistent with said sections.

**C. RESOLVING OBJECTIONS.**

1. Should any Agreement party object to the manner in which the terms of this Agreement are implemented, to any action carried out or proposed with respect to the implementation of the Agreement, or to any documentation prepared in accordance with and subject to the terms of this Agreement, the FHWA shall immediately notify the other parties to this Agreement of those objections, and shall consult with the objecting party and with the other parties for no more than 14 days to resolve the objection. The FHWA shall reasonably determine when this consultation will commence. If the objection is resolved through such consultation, the action subject to dispute may proceed in accordance with the terms of that resolution. If, after initiating such consultation, the FHWA determines that the objection cannot be resolved through consultation, the FHWA shall forward all documentation relevant to the objection, including the FHWA's proposed response to the objection, to the ACHP, with the expectation that the ACHP will, within thirty (30) days after receipt of such documentation, do one of the following:
  - a. advise the FHWA that the ACHP concurs in the FHWA's proposed response to the objection, whereupon the FHWA will respond to the objection accordingly. The objection shall thereby be resolved; or,



The amendment process shall comply with 36 CFR §§ 800.6(c)(1) and 800.6(c)(7). This Agreement may be amended only upon the written agreement of the signatory parties. If it is not amended, this Agreement may be terminated by either signatory party in accordance with section E of this stipulation.

**E. TERMINATION**

1. If this Agreement is not amended as provided for in section D.1 of stipulation VIII, above, or if either signatory party proposes termination of this Agreement for other reasons, the signatory party proposing termination shall, in writing, notify the other Agreement parties, explain the reasons for proposing termination, and consult with the other Agreement parties for at least 30 days to seek alternatives to termination. Such consultation shall not be required if the FHWA proposes termination because the Undertaking no longer meets the definition set forth at 36 CFR § 800.16(y).
2. Should such consultation result in an agreement on an alternative to termination, then the parties shall proceed in accordance with the terms of that agreement.
3. Should such consultation fail, the signatory party proposing termination may terminate this Agreement by promptly notifying the other Agreement parties in writing. Termination hereunder shall render this Agreement without further force or effect.
4. If this Agreement is terminated hereunder, and if the FHWA determines that the Undertaking will nonetheless proceed, then the FHWA shall either consult in accordance with 36 CFR § 800.6 to develop a new Agreement, or request the comments of the ACHP, pursuant to 36 CFR Part 800.

**F. DURATION OF THE AGREEMENT**

1. Unless terminated pursuant to section F of stipulation VIII above, or unless it is superseded by an amended Agreement, this Agreement will be in effect following execution by the signatory parties until the FHWA, in consultation with the other Agreement parties, determines that all of its stipulations have been satisfactorily fulfilled. This Agreement will terminate and have no further force or effect on the day that the FHWA notifies the other Agreement parties in writing of its determination that all stipulations of this Agreement have been satisfactorily fulfilled.
2. The terms of this Agreement shall be satisfactorily fulfilled within twenty (20) years following the date of execution by the signatory parties. If the FHWA determines that this requirement cannot be met, the Agreement parties will consult to reconsider its terms. Reconsideration may include the continuation of the Agreement as originally executed, amendment of the Agreement, or termination. In the event of termination, the FHWA will comply with section

F.4 of stipulation VIII, above, if it determines that the Undertaking will proceed notwithstanding termination of this Agreement.

- 3. If the Undertaking has not been implemented within twenty (20) years following execution of this Agreement by the signatory parties, this Agreement shall automatically terminate and have no further force or effect. In such event, the FHWA shall notify the other Agreement parties in writing and, if it chooses to continue with the Undertaking, shall reinitiate review of the Undertaking in accordance with 36 CFR Part 800.

**G. EFFECTIVE DATE.** This Agreement will take effect on the date that it has been fully executed by the FHWA and the SHPO.

**EXECUTION** of this Agreement by the FHWA and the SHPO, its transmittal by the FHWA to the ACHP in accordance with 36 CFR § 800.6(b)(1)(iv), and subsequent implementation of its terms, shall evidence, pursuant to 36 CFR § 800.6(c), that this Agreement is an agreement with the ACHP for purposes of section 110(1) of the NHPA, and shall further evidence that the FHWA has taken into account the effects of the Undertaking on historic properties and has afforded the ACHP an opportunity to comment on the Undertaking and its effects on historic properties.

**SIGNATORY PARTIES:**

**Federal Highway Administration**

By \_\_\_\_\_ Date \_\_\_\_\_  
Gene Fong  
Division Administrator

**California State Office of Historic Preservation**

By \_\_\_\_\_ Date \_\_\_\_\_  
M. Wayne Donaldson, FAIA  
State Historic Preservation Officer

**CONCURRING PARTIES:**

**Placer County Transportation Planning Agency**

By \_\_\_\_\_ Date \_\_\_\_\_  
Celia McAdam, Executive Director

**California Department of Transportation**

By \_\_\_\_\_ Date \_\_\_\_\_  
Jody Jones, District 3 Director