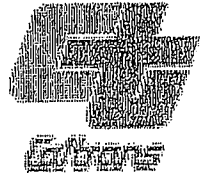


## **APPENDIX U**

### **CALTRANS TRAFFIC MITIGATION AGREEMENT**



Local Development -  
Intergovernmental Review Program

Traffic Mitigation Agreements

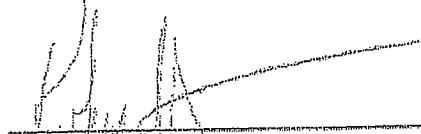
California Department of Transportation

June 2006

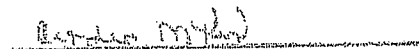
Traffic Mitigation Agreements  
with  
Local Development Project Proponents

Procedures for Collecting, Recording, and Expending Fair Share (Pro Rata) Funds  
and  
Securing Deferred Capital Improvements


APPROVED:

  
\_\_\_\_\_  
REGGORY A. BRIGHT  
Deputy Director  
Planning and Modal Programs

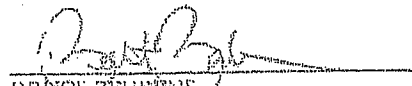
4/21/06  
Date

  
\_\_\_\_\_  
CINDY MCKIM  
Chief Financial Officer

4/24/06  
Date

  
\_\_\_\_\_  
RICHARD D. LAND  
Chief Engineer

4/25/06  
Date

  
\_\_\_\_\_  
BRUCE BEHRENS  
Chief Counsel

6/1/06  
Date

# Acknowledgement

The Office of Community Planning extends its great appreciation for the individual and collective statewide efforts that made possible the publication of these procedures:

## Traffic Mitigation Agreements with Local Development Project Proponents

Procedures for Collecting, Recording, and Expending  
Fair Share (Pro Rata) Funds  
and  
Securing Deferred Capital Improvements

---

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## LD-IGR Traffic Mitigation Agreements

### Appendices

1. Flow Chart: Executing an Agreement
2. Template: Fair Share Deferment Agreement
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5. Letter: Confirmation of receipt of mitigation measures funds from Proponent
6. Form: Sample Transfer Receipt (Form STD 440)
7. Flow Chart: Accounting for Expenditure of Fair Share Funds

## Definitions

1. **Contributor Number.** Identification number given to local proponent for a specific Agreement by the Reimbursement Accountant at Headquarters (HQ) and matched to the EA. A contributor number is required in order to set up a reimbursement (R) line on an EA in TRAMS.
2. **District Cashier.** District officer who receives mitigation funds from Local Development-Intergovernmental Review (LD-IGR) function, prior to funds being transferred to HQ Cashiering.
3. **District Projects Monitor.** Function in each District responsible for monitoring planned and programmed projects for the purpose of identifying where mitigation funds can be committed. For example, in District 6, Advanced Planning performs the function.
4. **Division of Accounting (DofA), Reimbursement Section.** HQ office responsible for assisting in setting up of both holding and project EAs for mitigation funding and for the subsequent accounting activities required.
5. **Division of Accounting, Office of Financial Accounting & Analysis (OFAA).** HQ office that certifies reimbursement authority for EA and subsequently releases EA for entry into TRAMS. Two separate sections within OFAA have respective responsibilities (Highway Appropriation Management Section [HAMS] and EA Control & Overhead Assessment Section [EA Control]).
6. **Division of Budgets, Capital Outlay (HQ Budgets).** Approves Reimbursement Authority for mitigation measures project EA phase 4 funds.
7. **Expenditure Authorization (EA).** A 6-digit alphanumeric "number" that is assigned to a specific project or work order to track all project-related financial activities. Mitigation funds collected are assigned an "holding" EA. (Temporary EA assigned with an EA status of 21, which is used for billing and collections only.) No activity may be recorded in TRAMS by any Department organization without an EA.
8. **Expenditure Authorization System/Capital Outlay Monitoring System (EAS/COMS).** A subsystem of TRAMS that is used to masterfile an EA.
9. **Funding Package.** Set of funding documents detailing the phase 4 EA construction financing for a capital outlay project. A Funding Package is required for every project submitted to Office Engineer for advertising and award of a construction contract.



## LD-IGR Traffic Mitigation Agreements

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10. **Headquarters Cashiering.** Receives funds from District Cashier and posts per instructions received from Reimbursement Accountant.
11. **Lead Agency.** The public agency which has the principal responsibility for carrying out or approving a project which may have a significant effect upon the environment. (CEQA [PRC Section 21067].)
12. **Local Development-Intergovernmental Review (LD-IGR) Coordinator.** Individual designated in each District to coordinate that District's functional responses to environmental review of proposed local development projects.
13. **Local Agency.** Any public agency other than a state agency, board, or commission. (For CEQA, includes redevelopment agency and a local agency formation commission [PRC Section 21062].)
14. **Masterfiled.** A term used to indicate that an EA or contributor number has been entered into TRAMS.
15. **Office Engineer (OE).** Division of Engineering Services office that performs the functions of preparation of the final contract documents, project scheduling, advertisement, bid opening, award, and approval of all Department highway construction contracts over \$120,000.
16. **Project Control Officer (PCO).** District officer authorized and responsible for processing Expenditure Authorization (EA) for mitigation funds upon request of Local Development-Intergovernmental Review (LD-IGR).
17. **Proponent.** Person/entity developing a project.
18. **Public Agency.** Includes any state agency, board, or commission, any county, city and county, city, regional agency, public district, redevelopment agency, or other political subdivision. (CEQA [PRC Section 21063].)
19. **Reimbursement.** Recovery in cash or its equivalent from another governmental unit, fund, or department for an expenditure made on its behalf. Mitigation funds are collected as "reimbursement funds." The reimbursement funding line on an EA is called the "R" line.
20. **Reimbursement Accountant.** First level of approval in HQ A/R for mitigation funds "holding" EA and subsequent masterfiling of both contributor number and project EA into TRAMS.

## *LD-IGR Traffic Mitigation Agreements*

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21. **Reimbursement Authority.** Approval required from HQ Budgets before HAMS can certify phase 4 construction project EAs in EAS/COMS (and before funds can be expended). Reimbursement Authority for mitigation funds is requested only for phase 4 construction projects. (When approved, the mitigation funds Reimbursement Authority is not part of a District's annual Reimbursement Authority allocation for capital projects.)
22. **Traffic Mitigation Agreement (Agreement).** The Agreement entered into directly with a project developer (proponent) in order to collect funds for traffic mitigation measures (Fair Share Deferment), or in order to secure a commitment for improvements (Capital Deferment), to offset impacts to the State Highway System when a project is approved by a local public agency. The Agreement will include attachments of supporting documentation.
23. **Traffic Mitigation Agreement (Agreement) Package.** The Agreement "Package," in addition to the signed and notarized (preferably) Fair Share Deferment Agreement and its attachments, consists of the check and copies of any other pertinent documents generated in the District pertaining to the collection and planned expenditure of the mitigation funds. (Capital Deferment Agreements are not forwarded to HQ Accounting, as there are no mitigation funds collected.)
24. **Transportation and Accounting Management System (TRAMS).** The Department's accounting system.
25. **TRAMS Collector.** Overnight electronic "bin" for EA after it has been released by OFAA, but not yet entered (or uploaded) into TRAMS.
26. **Transfer Receipt.** Form STD. 440 (REV. 6-2000). Used to record the receipt of funds by District Cashier and the subsequent transfer of those funds from District Cashier to HQ Cashiering.

## Introduction

The Local Development-Intergovernmental Review (LD-IGR) Traffic Mitigation Agreement (Agreement) was designed to fill a limited need. It is executed directly between the California Department of Transportation (Department) and project developers (proponents), both private and public, in order to capture mitigation to the State Highway System (SHS) that might otherwise be lost.<sup>1</sup>

Pursuant to the California Environmental Quality Act (CEQA), public agencies can require proponents to mitigate or avoid significant adverse impacts to the environment prior to approving a proponent's proposed project. Usually, public agencies (lead agencies, under CEQA) administer the collection of funds or other forms of mitigation to the SHS. Under certain circumstances, however, they will require that the proponent work directly with the Department to mitigate impacts to the SHS.

## Background

CEQA grants public agencies the authority to mitigate or avoid significant effects to the environment with respect to applicable projects within their jurisdictions. The resulting environmental review, as established by CEQA and its Guidelines, is central to the Department's ability to obtain mitigation for development impacts to the SHS.

The Department reviews proposed planning and development activity for the purpose of identifying potential significant impacts to the SHS. Depending upon the type and size of the proposed project, some degree of traffic analysis will be generated. The analysis may be in the form of a traffic impact study (TIS) conducted by a local public agency or proponent; calculations from the Institute of Transportation Engineers [ITE] *Trip Generation Handbook*; modeling; prior traffic analysis that established per-trip cost; or, some other appropriate method.

Whatever the form of the analysis, if it is determined that a significant impact will result from a proposed project, it is within the authority of the Department to request mitigation that will either eliminate the impact or reduce it to a level of insignificance.

The Department's recommendation for mitigation must be based upon sound technical data that: (1) Establishes a nexus (connection) between the proposed project and the impact to the SHS; and (2) calculates that the mitigation is proportional to the impact (fair share). Recommended mitigation generally results in direct infrastructure improvements, but it may also result in indirect improvements, such as a proponent providing, or enhancing, local transit services.

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<sup>1</sup> These procedures do not apply to the execution and administration of Cooperative Agreements, pursuant to California Streets and Highways Code, Sections 114 and 130.

## LD-IGR Traffic Mitigation Agreements

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As indicated earlier, a local public agency generally administers mitigation to offset the impact of a local development project to the SHS. The local agency collects the fair share funds from the proponent and accounts for them until such time as the mitigation measures are implemented. When the local public agency does not want to administer mitigation to the SHS, however, the Department can negotiate and execute an Agreement directly with the proponent to collect the funds or to obtain a commitment from the proponent to make improvements.

### Scope

These Traffic Mitigation Agreement (Agreement) procedures apply at the end of the Local Development-Intergovernmental Review (LD-IGR) process, when applicable. That is, they apply only when the Department enters into an Agreement directly with a proponent for mitigation of adverse impacts to the SHS caused by a proposed project that is subject to local public agency approval. The procedures are used for agreements between the Department and project proponents, both private and public.

These procedures are based upon the premise that:

- ❖ A proposed local development project underwent an environmental review, resulting in a determination that there will be an adverse impact to the SHS and that mitigation is required; and
- ❖ The Department will enter into an Agreement directly with a proponent to collect fair share mitigation funding; the proponent will commit to construct the mitigation improvements; or, in some instances, to do both.

The Department will enter into the Agreement because:

- ❖ A local public agency does not wish to collect and administer funds for SHS mitigation; therefore, it conditions project approval upon the proponent entering into an Agreement with the Department for the mitigation; or
- ❖ A proponent will approach the Department, already having determined that there will be an impact to some degree, and ask for assistance in calculating fair share mitigation prior to project application to the public agency.

See Appendix 1, Flow Chart, *Executing Fair Share Funds and Deferred Capital Improvement Agreements with Proponents*.

## Purpose

The purpose of these procedures is threefold: (1) Provide Agreement templates for use between the Department and local development proponents for direct receipt of mitigation funding or a commitment from the proponent to implement the mitigation measures; (2) describe the steps necessary to enter the direct receipt of funding into the Department's accounting system, the Transportation and Accounting Management System (TRAMS); and, (3) outline the steps necessary to apply the funds to a project.

## Approach

The procedures described herein are based upon those that have been in place in District 6 for some time. They reflect the successful coordination of efforts that evolved over the years among the District's multiple functional units, Headquarters Accounting and Budgets Divisions, local public agencies, and proponents.<sup>2</sup>

We'll begin with a description of how the Agreement templates can be used, depending upon the type of mitigation that is negotiated. That is followed by a description of the procedures that are required to set up an account in TRAMS when funds are collected, and then discuss the expenditure of the funds. Lastly, the Appendices provide supporting information, including the Agreement templates.

## Traffic Mitigation Agreement

Depending upon the purpose of the Agreement, one of two templates that were prepared by the Department's Legal Division (Legal) can be used: (1) Fair Share Deferment (we will collect the mitigation funds); and (2) Capital Deferment (the proponent will make the capital improvements--the Department will not collect funds).<sup>3</sup>

Further, there may be circumstances under which mitigation calls for the proponent to pay a fair share in funds to the Department and construct improvements to the SHS. Under such circumstances, contents of both the Fair Share Deferment and Capital Deferment formats can be used in a combined Agreement. For example, a proponent may need to make improvements that

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<sup>2</sup> District Planning and Engineering units may wonder why the Accounting and Budgeting tasks are included within these procedures. The thought is that if the Planners and Engineers know what information the Accounting and Budgeting staff require, it will make it easier to ensure that the record keeping is complete. Likewise, the Accounting and Budgeting staff can benefit by knowing what the Planners and Engineers are working to accomplish.

<sup>3</sup> Since no funds will be collected with a Traffic Mitigation Agreement for Capital Deferment, the Agreement is not forwarded to Headquarters Accounting. However, District Permits should receive a copy if the proponent's project will require an encroachment permit.

## LD-IGR Traffic Mitigation Agreements

extend to our right-of-way in order to provide safer and more convenient access to a new development prior to opening for business (perhaps installing a traffic signal). Cumulative traffic impacts of the project may need mitigating, as well, so we would also collect funds for improvements to the mainline facilities.

The flexibility of the Agreement reflects the various types of mitigation that can be negotiated to offset traffic impacts to the SHS.

If the mitigation measures agreed to by the Department and the proponent simply reflect changing those areas of the Agreement that describe specific project information (highlighted in yellow in our templates), it is not necessary to obtain another review by Legal before executing the Agreement. Once executed, the Agreement can be forwarded to Legal for approval of form and procedure. However, if a more extensive re-write of the template than simply changing the "highlights" is necessary, the Agreement must be reviewed by Legal prior to execution.

Mitigation funding can be used for a number of purposes, depending upon the language negotiated in the Agreement between the Department and the proponent. The description of the mitigation measures should be as generic as possible, considering that the particular Agreement measures will normally be part of a larger project. At the same time, the Agreement must be specific enough to ensure that it clearly documents the required connection between project impact and mitigation expenditures.

For example, analysis may determine that a proposed project will contribute to the need for an interchange access improvement. Since there will be various costs associated with the improvement, the Department might identify the location of the interchange without identifying the specific measures to be implemented (underground wire, guard rails, etc.). The more general description provides flexibility and allows the most effective use of the funds. On the other hand, analysis and conditions may dictate that the Department negotiate for a specific improvement, such as a "signal," "turn lane," or "portion of HOV lane," etc.

Keep in mind that many years can go by between receipt and expenditure of the funds. Whether the Agreement describes mitigation in general or in more specific terms, there should be as much detail as possible to aid long term connection of the funding and related expenditures to the mitigation. Whether it is in the Agreement "proper" or part of the supporting documentation, information such as location (including Post Mile, for example, if applicable); name of the project, local jurisdiction, funding amount (unless Capital Deferment), environmental references, and requirements for meeting certain warrants or thresholds by dates (for example, "2020") should be included.

Each Agreement should be assigned a District number.

All Agreement signatures should be notarized. There is at least one (1) Notary Public on staff at almost all of the Districts---usually part of the Right of Way

function. If in doubt, please contact the District Executive Assistant or Executive Secretary, who can help identify the Notary(ies). Exceptions to having an Agreement notarized will be authorized by the Districts.

When the Department enters into a Capital Deferment Agreement (or if a combined Agreement is executed) it may wish to have the Agreement recorded with the County Clerk as a means to ensure completion of the mitigation project. Other options may be to require a bond or letter of credit. It will depend upon the type of project. Again, Legal will help in determining whether the above, or other, conditions are appropriate.

Appendices 2, and 3 provide sample templates for:

1. Fair Share Deferment Agreement;
2. Capital Deferment Agreement;

Each template provides, in yellow, those areas where the specific language (at a minimum) would need to be changed with each new Agreement in order to reflect the particular requirements and conditions. It is expected, as well, that revisions to the template will be made as warranted.

## Accounting for Receipt of Funds

Mitigation funds are accounted for as reimbursements (in TRAMS as fund source "R").

Procedures for recording the receipt of mitigation funds are similar to those used by the Department in accounting for other reimbursement project funds. In most cases with mitigation funds, however, the Department tracks the funds for many years, so these procedures will emphasize some of the coding requirements for the long-term collections.

Since the Department collects only a proponent's fair share of mitigation funds, and it could take a long time to gather enough funds to complete an improvement, the funds will not be assigned (generally) a project Expenditure Authorization (EA) at the time they are collected. Rather, an "holding" EA will be established in TRAMS, "R" fund source, EA status 21 (allows only billings and collections to post).

When they are scheduled for a project, the funds will be assigned the project EA. (If an appropriate project exists at the time of collecting the funds, of course, that project's EA will be assigned to the funds, and the Department won't have to "hold" them.)

Steps to be taken to enter the funds into TRAMS are described in the following few pages. (These steps assume that a holding EA will be required.)

Also, please see Appendix 4, Flow Chart, *Accounting for Receipt of Fair Share Funds from Proponents*.

## LD-IGR Traffic Mitigation Agreements

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### I. Districts:

#### A. Local Development-Intergovernmental Review (LD-IGR):

1. Receive check from the project proponent, following execution of the Agreement.
2. Send a letter, or E-mail, to the local public agency, confirming receipt of the proponent's check for mitigation measures. (See Appendix 5.)
3. Send a copy of the above confirmation to the project proponent.
4. Forward the following documents to the Project Control Officer (PCO):
  - a. Copy of the check.
  - b. Signed Agreement, including attachments.
  - c. Copy of the letter or E-mail that was sent to the local agency confirming receipt of the mitigation funding.
  - d. Request an Expenditure Authorization (EA) for the funding. (The District Cashier needs the EA in order to transfer the funds to HQ Cashiering, also.)
5. Upon receipt of an EA, deliver the check and copy of Agreement Package to District Cashier. Cashier will issue a Transfer Receipt (Form STD. 440).
6. If the proponent's local development project requires an encroachment permit, forward a copy of the Agreement and its attachments, including EA, to Permits.

#### B. Office of Budgets:

1. Project Control Officer (PCO):
  - a. Assign an EA to the Agreement (holding or project EA, as applicable).
  - b. Fax or e-mail the Agreement Package, to the appropriate Reimbursement Accountant, so that a "Contributor Number" for the project proponent will be masterfiled. Fax to: (916) 227-8789 or Calnet 8-498-8789. In order to determine the appropriate Reimbursement Accountant, go to the Reimbursement contact page located at <http://onramp.dot.ca.gov/hq/accounting/print/OAR0206.doc>. The accountant's name, phone number, and e-mail link are provided.



## LD-IGR Traffic Mitigation Agreements

- c. Upon receipt of the Contributor Number from the Reimbursement Accountant, set up the EA in EAS/COMS, Status 21<sup>4</sup>, and transmit to the Reimbursement Accountant for approval of the set up and R line. (After approval, the EA will be forwarded to HQ EA Control & Overhead Assessment Section [EA Control].)
  - d. Upon entry (approval) of the EA into TRAMS, notify all Department project participants involved, and copy notice to Reimbursement Accountant.
2. Cashier:
- a. Receive proponent's check from LD-IGR. Complete a Transfer Receipt (Form STD. 440) for check and give the original to the LD-IGR staff person who delivered the check. Transfer Receipt must include the following information:
    - (1) Date;
    - (2) Dollar amount collected;
    - (3) Check number;
    - (4) EA number;
    - (5) Purpose (project mitigation);
    - (6) The term "REIMBURSEMENTS";
    - (7) The words "For deposit into 'Account 84'"; and
    - (8) Any other pertinent identifying information (See Appendix 6).
  - b. Forward to HQ Cashiering:
    - (1) Check;
    - (2) Copy of Transfer Receipt;
    - (3) Copy of remainder of Agreement Package documents;
    - (4) Staple documents together.

## II. Headquarters

### Division of Accounting:

#### 1. Cashiering:

- a. Upon receipt of check, Agreement Package, and copy of Transfer Receipt from District Cashier, enter funds as a deposit of Reimbursement dollars into Account 84.

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<sup>4</sup> "EA Status 21" allows billings and collections only to post in TRAMS---no expenditures. PCO will not obtain Reimbursement Authority, and the EA will not have an authorized amount on screen 64 in TRAMS for this "holding" EA. The YI indicator should be set at "0" (zero), indicating that the EA is not to roll forward. (EA will remain in status 21 until the District identifies a project, and the PCO submits a request to Budgets for Reimbursement Authority for the phase 4 under the project EA.)

## LD-IGR Traffic Mitigation Agreements

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- b. Upon receipt of an invoice (with EA and contributor number) prepared by the Reimbursement Accountant for the mitigation funds, withdraw these funds from Account 84 and apply to the invoice provided by the Reimbursement Accountant.<sup>5</sup>
2. Reimbursement Accountant:
  - a. Upon receipt of Agreement Package from District PCO, assign Contributor Number to the project proponent and notify District PCO.
  - b. Upon receipt (and approval) of EA from District PCO, forward to Office of Financial Accounting & Analysis (OFAA)-Highway Appropriation Management Section (HAMS).
  - c. Upon notice from PCO that EA has been masterfiled, issue an invoice in the amount of the funds received.
  - d. Provide HQ Cashier with invoice copy for mitigation funds. (HQ Cashier will withdraw from Account 84 and apply to invoice number provided by Reimbursement Accountant.)<sup>6</sup>
  - e. Monitor the mitigation funds on deposit in EA Status 21, and manually transfer them to a current Fiscal Year (FY) if the FY in which they are entered is lapsing.
3. EA Control & Overhead Assessment Section (EA Control):

Review EA to ensure that information is complete and correct, and upon verification, release for entry into TRAMS COLLECTOR (TU).

## Expending the Funds

As discussed earlier, mitigation funding can be used for a variety of improvement purposes, depending upon the language negotiated in the Agreement between the Department and the proponent.

Once a project has been identified, the accounting and budgeting activity begins to move the funds from the holding EA to the project EA in order to offset the funds collected with an encumbrance and expenditures.

Numerous functions will participate in the identification, scheduling, encumbrance, and expending of the funds. There is no attempt here to detail every step that will be taken by every function in the Districts and HQ during the process. The following sections more or less outline actions taken by

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<sup>5</sup> The accounting system requires an invoice number to be applied to the receipt of funds. The Reimbursement Accountant will prepare an invoice for in-house use only for the mitigation funds.

<sup>6</sup> TRAMS screen 64 will show the invoice and collection amount. This invoice/collection of mitigation funds will remain as such in TRAMS until the funds are transferred to a project EA.

participating functions. It is understood that communication will need to take place between and among the District functions, HQ Accounting, Budgets, and Office Engineers, as projects require.

## I. Identifying and Scheduling Projects

### A. Districts:

#### 1. District Projects Monitor:

- a. Monitor all District's planned and programmed projects in coordination with LD-IGR and Project Management; and, identify when, in accordance with the Agreement, the proponent's mitigation funding should be included in a project.
- b. Notify the PCO (via E-mail or other written documentation) that the Project Manager has identified mitigation funds as part of a project Funding Package. Notification should include the name of the Project Manager, amount of funding, and the holding EA, as well as the project EA to which the funds will be transferred by the Reimbursement Accountant.<sup>7</sup>
- c. Coordinate with Project Manager and the PCO to ensure that affected District functions are notified.
- d. Ensure that Project Manager receives a copy of Agreement.

#### 2. Project Manager:

- a. Submit project Funding Package to HQ Budgets, with a copy to Office Engineer (OE), requesting project funds.
- b. Forward a copy of Agreement to OE as part of Funding Package.
- c. Identify mitigation funding as a lump sum amount on a separate line in the Funding Package.

#### 3. Project Control Officer:

- a. Upon notification from District Project Monitor that mitigation funds currently in the holding EA have been scheduled for project inclusion, request Reimbursement Authority for the amount of the mitigation funds from HQ Budgets for the project EA. Include Agreement Package with the request.<sup>8</sup>

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<sup>7</sup> Upon transferring from an holding EA to a project EA, the FY will be that of the Reimbursement Authority FY assigned by Budgets.

<sup>8</sup> Reimbursement Authority required only if the project EA is phase 4 construction (20.20).

## LD-IGR Traffic Mitigation Agreements

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- b. Ensure that HQ Accounting, Reimbursement Accountant, is aware of the change from holding EA to project EA through project EA approval (including verifying fund source/distribution to OE) and via e-mail.
- c. Upon receipt of Reimbursement Authority from HQ Budgets (if applicable), forward approval to Reimbursement Accountant and HAMS.
- d. Using a "Contributor Number Request" form, accompanied by an explanatory e-mail, request Reimbursement Accountant to masterfile in project EA the same contributor number previously masterfiled in holding EA.

### B. Headquarters:

#### 1. HQ Budgets:

Upon receipt of Agreement Package from District PCO, issue approval of request for Reimbursement Authority for the mitigation funds for phase 4 construction project EA via Memorandum hard copy or e-mail.

#### 2. Office Engineer (OE):<sup>9</sup>

- a. Set up the project Phase 4 EA in EAS/COMS after bid opening.
- b. Enter the authorization amount for each funding source into the EA. When entering the cost percentage distribution for the funding sources, the R-line percent for mitigation funds will be set at "0," and no expenditures will be charged against those funds until the Reimbursement Accountant manually transfers expenditures against them. (Lump sum collections are not included in cost percentage distributions.)
- c. Send EA to District PCO for approval.
- d. Upon receipt of approval from District PCO, route EA to HQ Accounting Reimbursement Accountant and HAMS for certification.
- e. Award contract after the certified EA is received from HQ Accounting HAMS.
- f. Send certified EA to HQ EA Control for release to TRAMS.

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<sup>9</sup> HQ OE will prepare the construction bid package and perform its associated activities for projects with total estimated costs of \$120,000 and above. For projects that are not forwarded to OE for processing, Districts will proceed with mitigation projects as they do for other contracts that are not sent to OE for advertising, bid opening, and award.

3. Reimbursement Accountant:

- a. Masterfile holding EA contributor number in project EA.
- b. Transfer billings and collections for contributor from holding EA to project EA's R-line.
- c. Suspend holding EA.
- d. Verify that funds have transferred into the project EA.
- e. When expenditures charged to all other fund sources within the project exceed the amount of the mitigation funds received, the Reimbursement Accountant will manually transfer expenditures to equal the amount of the mitigation invoice/collections.
- f. Work with the District LD-IGR counterpart throughout the mitigation project.

## II. Project Cost Summary

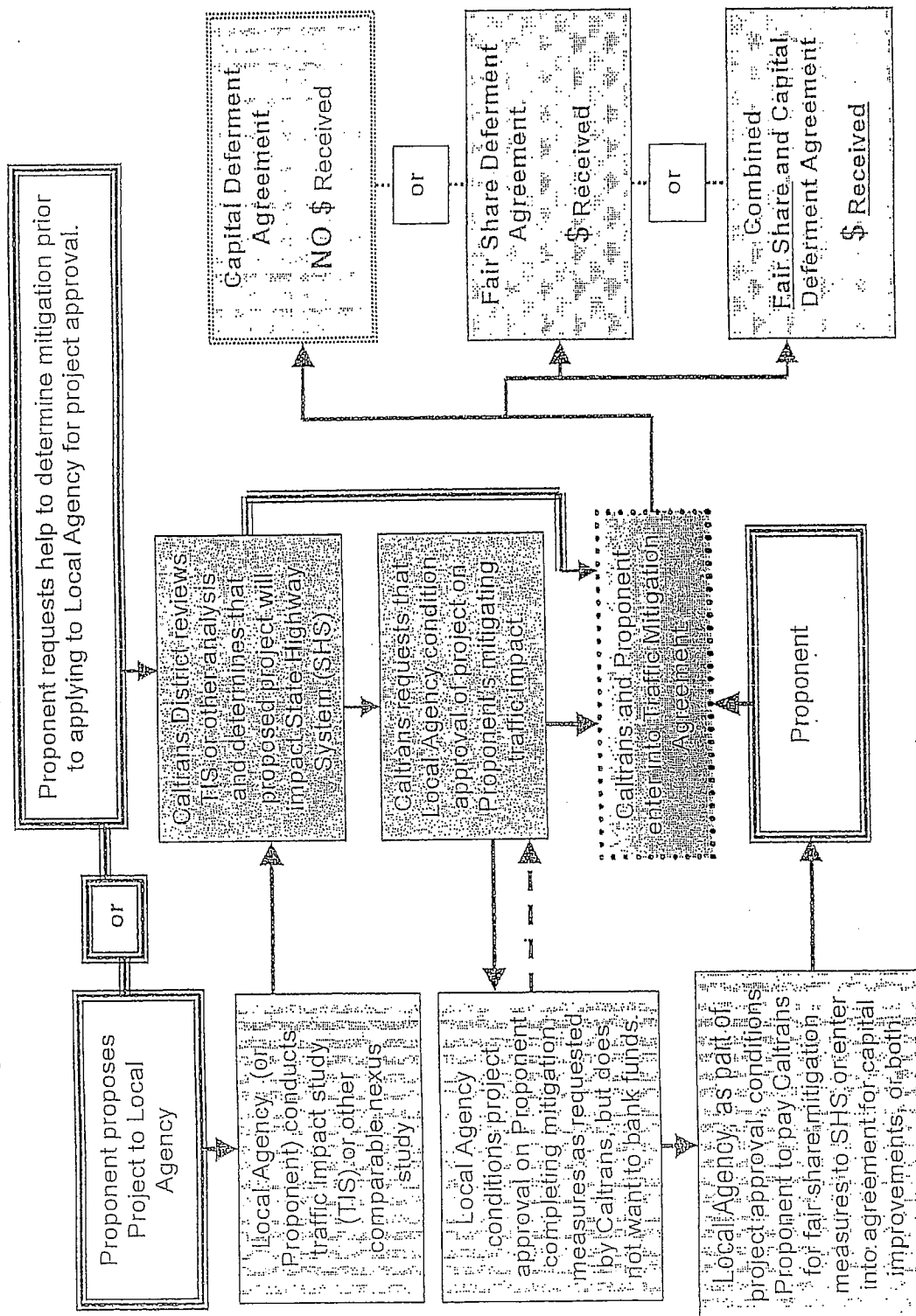
The Reimbursement Accountant will prepare a Project Cost Summary (final accounting) for the mitigation funds when the construction project is complete and will forward a copy to the District Local Development-Intergovernmental Review contact.

Please see Appendix 7, Flow Chart, *Accounting for Expenditure of Fair Share Funds Received from Proponents*.

# A p p e n d i c e s



**California Department of Transportation**  
Traffic Mitigation Agreements with Local Development Project Proponents  
*Executing Fair Share Funds and Deferred Capital Improvement Agreements with Proponents (Developers)*







## FAIR SHARE DEFERMENT

RECITALS<sup>1</sup>

- 1

## LD-IGR Traffic Mitigation Procedures

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Owner agrees to pay to Department, within thirty (30) days of the above stated effective date of this Agreement, the Funds which represent Owner's pro-rata share of the anticipated total costs of the improvements required to mitigate Impacts to SR-60 at Fremont Interchange.
2. Department hereby acknowledges that upon payment in full of Funds by Owner, Owner will have satisfied its mitigation obligation to Department for Proposed Development Impacts.<sup>6</sup>
3. Said Funds shall remain in the State Highway Account until such time as the balance of other funds necessary to implement the required improvements to SR-60 at Fremont Interchange or another equivalent project that would offset the Impacts as required by the California Environmental Quality Act (CEQA) are secured.
4. Department agrees that the Funds paid by Owner pursuant to the terms of this Agreement shall be used for the purposes of instituting the required improvements to SR-60 at Fremont Interchange or another equivalent project that would offset the Impacts as required by CEQA.
5. In the event that the Funds are not expended on improvements to SR-60 at Fremont Interchange, or another equivalent project that would offset the Impacts as required by CEQA, by Department on or before December 31, 20xx, Department shall return to Owner, within sixty (60) days of receipt of Owner's written request, all then unexpended Funds.
6. All obligations of Department under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority, and the allocation of resources by the California Transportation Commission.
7. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the Parties are not signatory to the original or the same counterpart.
8. This Agreement shall expire when Department has expended all of the Funds; Funds are returned to Owner, in whole or in part pursuant to Article 5 of this Agreement; or on December 31, 20xx, whichever occurs first in time.

<sup>5</sup> or [as specified at time of grading permit, building permit, occupancy, etc.]

<sup>6</sup> We can only acknowledge that Owner has satisfied the Department's mitigation requirements. If the Owner has more than one obligation to the Department, provision 2 will need to be modified.

LD-IGR Traffic Mitigation Procedures

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth below.

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_  
Designated District Official

OWNER

By: \_\_\_\_\_  
Authorized Representative

Approved as to Form and Procedure

\_\_\_\_\_  
Attorney, State of California  
Department of Transportation



Recording Requested by: )

Conformed Copy to: )

Department of Transportation  
District Address

TEMPLATE

TRAFFIC MITIGATION AGREEMENT  
CAPITAL DEFERMENT

THIS AGREEMENT, entered into effective this [ ] day of [ ], 2006, by and between the State of California, acting by and through its Department of Transportation, hereinafter referred to as "Department," and Charles Browning, hereinafter referred to as "Owner."

RECITALS<sup>2</sup>

- A. WHEREAS, Owner has proposed to develop a residence located in the City of Opportunity, All County, hereinafter referred to as "Proposed Development." Said Proposed Development will be constructed on a piece of real property, hereinafter referred to as "Property," which is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference; and
- B. WHEREAS, Owner, as part of compliance with the environmental process, had a Traffic Impact Study (TIS) prepared which determined that the Proposed Development would result in adverse impacts to State Route (SR) 41 on the north side of Proposed Development Property, hereinafter referred to as "Impacts"; and
- C. WHEREAS, that TIS, and as incorporated into the Proposed Development's environmental document,<sup>4</sup> also identified specific measures to mitigate for those said

<sup>1</sup> This section needs to be removed if the Agreement will not be recorded. See paragraph 8.

<sup>2</sup> The recital section needs to match the proposed project. Recital section generally tells the "story" as to why the Department and Owner are entering into this Agreement.

<sup>3</sup> or, [Department, based upon Institute of Traffic Engineers (ITE) methodologies and consistent with Department's traffic study guide;] Also note that, while some jurisdictions may not require mitigation during the entitlement process, it does not preclude the Owner from entering into an agreement with Department to offset impacts caused by the Project. However, this should be done only in limited circumstances and in lieu of the Department challenging the Development project's environmental document. As always, the Department will continue to provide IGR comments that include mitigation to offset traffic impacts to the State Highway System as a result of Development projects.

<sup>4</sup> or, [Department's determination described in provision B above]

## LD-IGR Traffic Mitigation Procedures

Proposed Development Impacts, specifically that Owner would timely complete certain improvements to ~~SR 41 on the north side of Proposed Development Property~~, hereinafter referred to as "Mitigation Measures"; and

- D. WHEREAS, Department and Owner now desire to set forth the terms and conditions that will allow Owner to proceed with Proposed Development and phase the implementation of the Mitigation Measures, when requested by Department, in a manner that will offset the Impacts.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Department agrees that Owner may delay implementation of the Mitigation Measures until after the initiation of the Proposed Development and until such time as the Department provides written notice to Owner that those said Mitigation Measures must be commenced.
2. Owner agrees to begin commencement of said Mitigation Measures within sixty (60) days of issuance of said written notification by Department to Owner that Mitigation Measures are to commence.
3. Owner agrees to ensure that Mitigation Measures comply with all applicable State and Federal requirements [including, but not limited to, the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), if applicable], conform to all then applicable Departmental standards, including obtaining an encroachment permit, and may include entering into another form of agreement for work on or adjacent to Department's property. Furthermore, Owner agrees to ensure that those Mitigation Measures are completed to the satisfaction of the Department.
4. Owner agrees to be fully responsible to fund 100% of all of the costs related to implementation of Mitigation Measures.
5. Neither Department nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by Owner under or in connection with any work or authority arising under this Agreement. It is understood and agreed that Owner shall fully defend, indemnify and save harmless Department and all of its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation and other theories or assertions of liability occurring by reason of anything done or omitted to be done by Owner under this Agreement.
6. Owner shall maintain in force, until completion and acceptance of the Mitigation Measure by Department, a policy of Liability Insurance, including coverage of Bodily Injury Liability and Property Damage Liability, naming the State of California, its

officers, agents and employees as the additional insured in the amount of One Million Dollars for bodily injury and property damage per person and Two Million Dollars in aggregate. Coverage shall be evidenced by a Certificate of Insurance in a form satisfactory to Department that shall be delivered to Department at the time mitigation measures are started.

7. Department acknowledges that upon completion and acceptance of Mitigation Measures by Department, Owner will have satisfied its mitigation obligation to Department for Proposed Development Impacts.
8. This Agreement is an instrument affecting the title or possession of the Property described herein. All of the terms, covenants and conditions herein shall be binding upon the successors in interest of Owner and upon the sale of Property, shall apply to the successor(s) who shall succeed to all of the obligations imposed upon the Owner by this Agreement. In the event that said Property is subdivided, the terms, covenants and conditions herein shall be binding upon the successors in interest of Owner, and upon the sale of the subdivided Property shall apply to the successor(s) who shall succeed to those obligations imposed upon the Owner by this Agreement. Furthermore, Owner shall record a copy of this Agreement against the title of the Property in the office of the Recorder of Alameda County and provide, within thirty (30) days thereafter, a conformed copy to Department.<sup>5</sup>
9. This Agreement may be executed in several counterparts and all counterparts so executed shall constitute one agreement that shall be binding on all of the parties, notwithstanding that all of the parties are not signatory to the original or the same counterpart.
10. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.
11. Any and all obligations assumed by the Department under this Agreement that are not fully reimbursed by the Owner are conditioned upon the creation, appropriation,

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<sup>5</sup> One or both of the following provisions may be inserted into the Agreement in place of Paragraph 8, or one or both may be added to the Agreement, depending upon which will provide the Department with the best assurances that the mitigation measures will be implemented. For example, we will need to know if the property will be transferred to a new owner, will the property be subdivided, when will the mitigation measures need to be implemented, etc. Legal will advise when Agreement is being negotiated.

a. Owner shall furnish a renewable performance bond, naming Department as the obligee, in the amount of not less than one hundred and ten percent (110%) of the total cost of Mitigation Measures, estimated to be XXX. No later than thirty (30) days prior to the expiration of each twelve (12) month period, Owner shall provide a one (1) year extension of the bond or obtain new bonds. Each bond shall continue until such time as the Mitigation Measures are completed by Owner and accepted by Department.

b. Owner shall obtain and provide a copy to Department an irrevocable letter of credit, with Department being named as the intended beneficiary with full right to draw upon said letter of credit, in the amount of \$\_\_\_\_\_ a sum equivalent to not less than one hundred and ten percent (110%) of the estimated total cost of Mitigation Measures.

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allocation and encumbrance of sufficient revenues and resources by the Legislature, State Budget Act Authority, and the California Transportation Commission.

12. This Agreement shall expire when Owner has completed and Department has accepted the Mitigation Measures described within this Agreement or Department has notified Owner in writing that improvements are not required and that Owner no longer has any such obligation to complete those Mitigation Measures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

CALIFORNIA DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

Designated District Official

CHARLES BROWNING

\_\_\_\_\_  
Authorized Representative

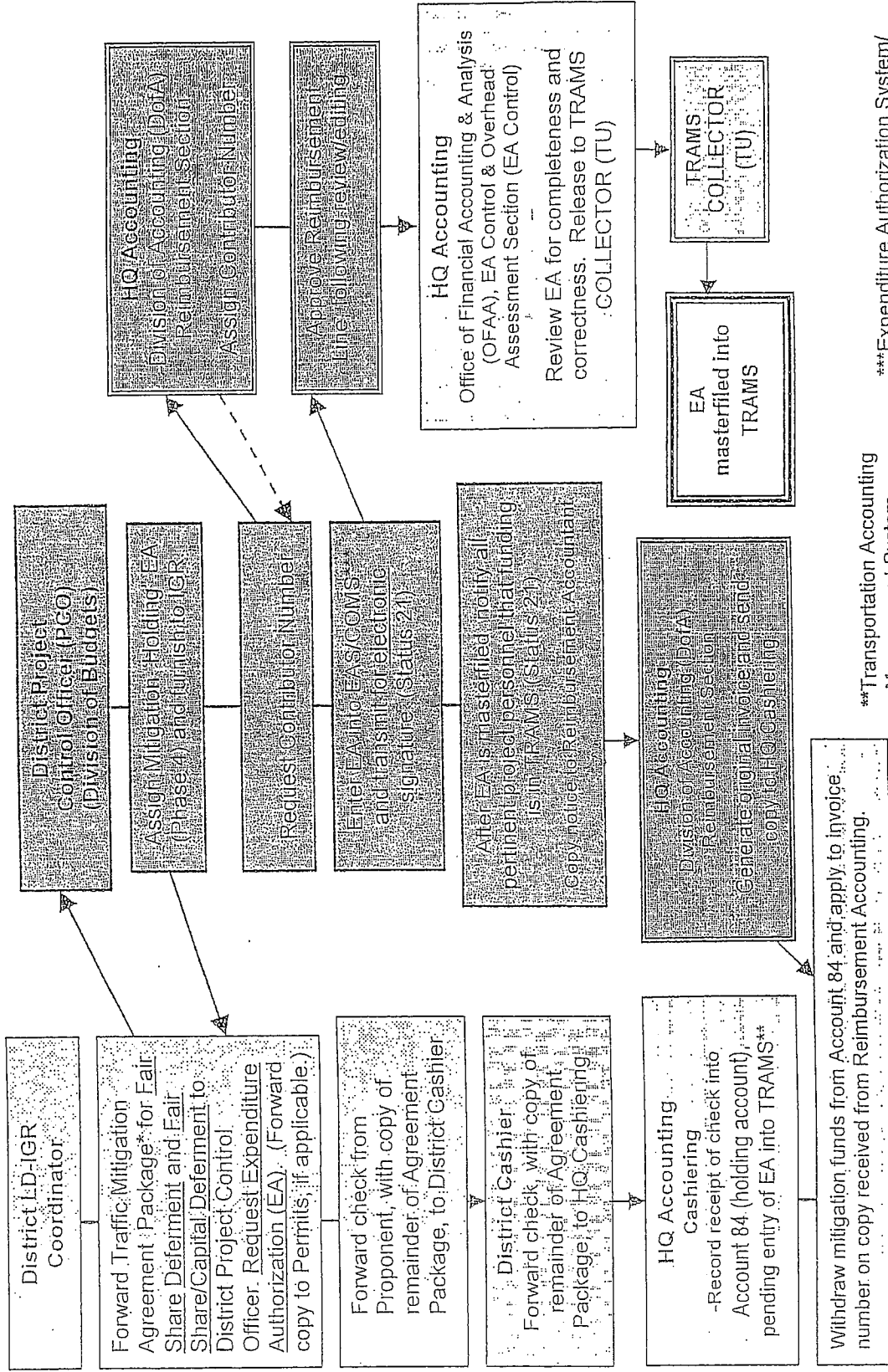
Approved as to Form and Procedure

\_\_\_\_\_  
Attorney, State of California,  
Department of Transportation





California Department of Transportation  
Traffic Mitigation Agreements with Local Development Project Proponents (Developers)  
Accounting for Receipt of Fair Share Funds from Proponents



\*Package includes signed, notarized, and recorded, (if applicable), Agreement, copy of check, copy of letter (or E-mail) to public agency confirming receipt of \$, and "Request for Expenditure Authorization."

\*\*Transportation Accounting Management System

\*\*\*Expenditure Authorization System/ Capital Outlay Monitoring System

----- HQ response to Districts



## DEPARTMENT OF TRANSPORTATION

DIVISION OF TRANSPORTATION PLANNING, MS-32

1120 N STREET

P.O. BOX 942874

SACRAMENTO, CA 94274-0001

PHONE (916) 653-0808

FAX (916) 653-4570

Use District Letterhead or E-Mail

Flex your power!  
Be energy efficient!

April 5, 2006

Ms. Annabel Carter  
City of California  
1234 Somewhere Street  
California, CA 91234-1234

Subject: Receipt of Mitigation Measures Funds, Generic Proponent, Traffic  
Mitigation Agreement, dated April 1, 2006

Dear Ms. Carter:

The California Department of Transportation (Department) received Generic Proponent's fair share payment in the amount of \$6,400.00 (Six Thousand and Four Hundred Dollars) for mitigation measures to be applied to future signalization of State Route (SR) 44/Daisy Avenue intersection, as specified in the subject Agreement and the public agency document that approved the project on condition of the mitigation measures.

The Department considers the fair share amount to be adequate mitigation for traffic related impacts to the SR 44/Daisy Avenue intersection.

Please call me at (559) 445-5868 if you have any questions.

Sincerely,

MICHAEL ANGELO  
Office of Transportation Planning  
District 6

SAMPLE

c: Generic Project Proponent  
District Permit Engineer

\*\*\*\*\*Whether by letter or e-mail, \*\*\*\*\*  
ensure that confirmation to public agency  
contains reference to binding agreement/s.



California Department of Transportation  
Traffic Mitigation Agreements with Local Development Project Proponents

Transfer Receipt (Form STD. 440)

Sample  
Larger Than Actual Form

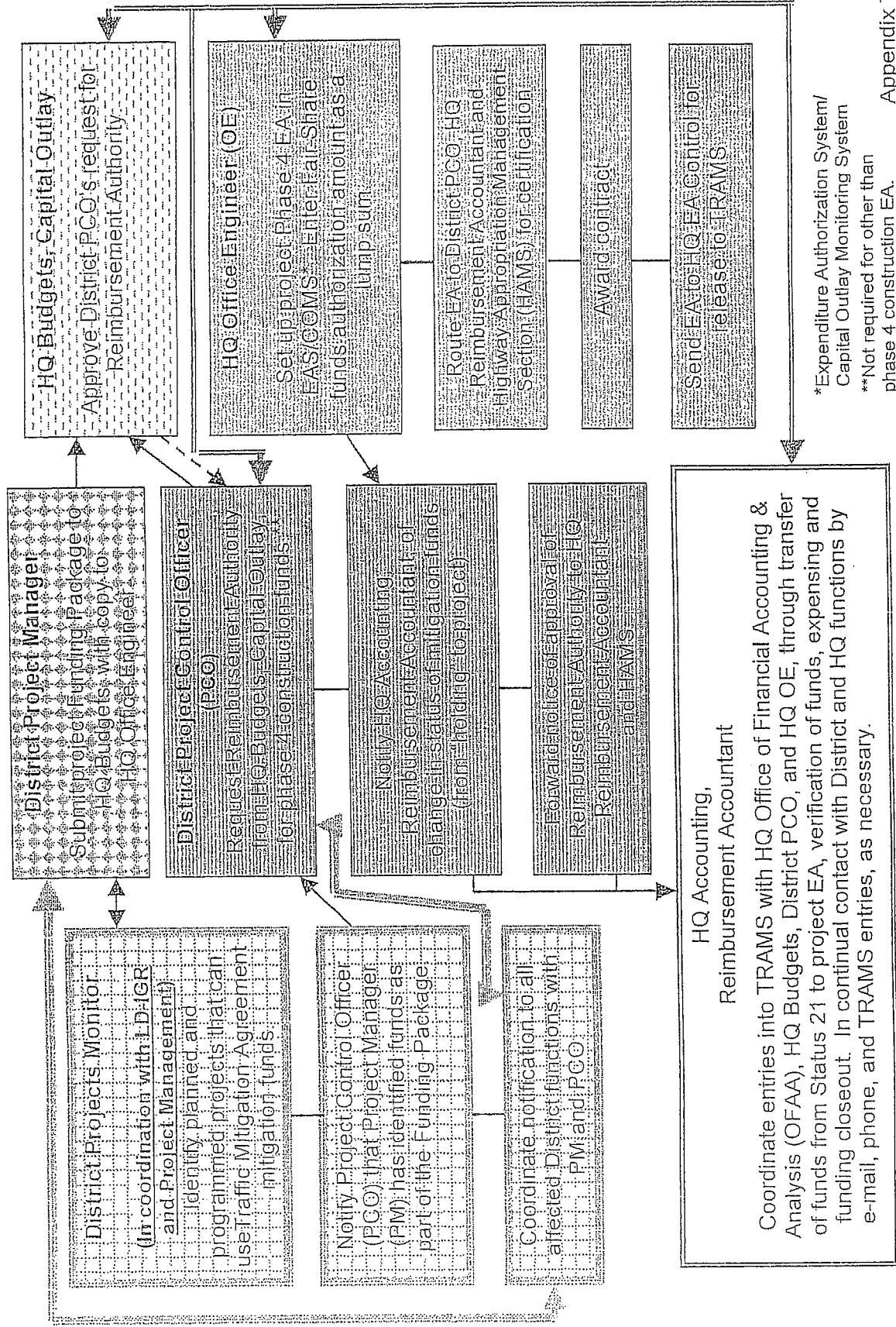
STATE OF CALIFORNIA-DEPARTMENT OF FINANCE STD. 440 (REV. 6-2000)	TRANSFER RECEIPT NOT A RECEIPT FOR PAYMENT BY THE PUBLIC
ORIGINAL-TRANSFEROR DUPLICATE-TRANSFEREE TRIPPLICATE-ACCOUNTING RECORD	DATE: <u>April 5</u> 20 <u>06</u>
RECEIVED FROM <u>Dedicated Employee / Generic Proponent</u>	<u>\$ 6,400.00</u>
EA# 06-0C0004 Check #: 123456	<u>District Cashier</u> SIGNATURE OF TRANSFEREE
Traffic Mitigation Agreement, dated April 1, 2006	
<u>Reimbursement Funds - Deposit to Acct#: 84</u>	
OSP 02 72902	

Cashier:

- Complete a Transfer Receipt (Form STD. 440) for check and give original to LD-IGR. Transfer receipt should include the date, dollar amount collected, check number, EA number (holding), date of Agreement, and any other pertinent identifying information.
- Clearly indicate that these are "Reimbursement Funds" for deposit into "Account 84."
- Staple check, copy of Transfer Receipt and copy of Agreement together, and forward to HQ Cashiering.



California Department of Transportation  
Traffic Mitigation Agreements with Local Development Project Proponents  
Accounting for Expenditure of Fair Share Funds Received from Proponents



## DEPARTMENT OF TRANSPORTATION

DISTRICT 11  
PLANNING DIVISION  
4050 TAYLOR STREET, MS 240  
SAN DIEGO, CA 92110  
PHONE (619) 688-6960  
FAX (619) 688-4299  
TTY 711  
www.dot.ca.gov



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March 1, 2011

11-SD-8  
PM 65.9  
Tule Wind Project  
DEIR

Mr. Iain Fisher  
California Public Utilities Commission  
605 Third Street  
Encinitas CA 92024

Dear Mr. Fisher:

The California Department of Transportation (Caltrans) appreciates the opportunity to have reviewed the Tule Wind Project Draft Environmental Impact Report (DEIR) traversing Interstate 8 (I-8) near Ribbonwood Road/McCain Valley Road, as well as State Route 94 (SR-94). Caltrans has the following comments:

Figure D.9-1 showing that the overhead lines will cross I-8 while connecting from one substation to another. Any utility crossings of highways or freeways (ie: I-8 or SR-94) will need an encroachment permit from Caltrans. Please refer to Caltrans Encroachment Permits Manual ([http://www.dot.ca.gov/hq/traffops/developserv/permits/encroachment\\_permits\\_manual/index.html](http://www.dot.ca.gov/hq/traffops/developserv/permits/encroachment_permits_manual/index.html)) for guidance on utility encroachment. The following information is contained in Chapter 600, Table 6.7 (page 6-35) of the Encroachment Permit Manual. Line supports for overhead lines crossing freeways must comply with these requirements, they:

1. Should have a minimum lateral clearance of 30' from the edge of a through lane and 30' from the edge of a ramp lane, when possible.
2. Shall be located outside the right-of-way (R/W) or between the R/W line and access control line if different. Any other placement must be approved by the Division of Design, Chief.
3. Should not be permitted in medians.
4. Should not be permitted on cut or fill slopes.
5. Shall not impair sight distances.
6. Shall be compatible with access requirements.

Please refer to Caltrans Encroachment Permits Manual for guidance on Traffic Control on freeways. The following information is contained in Appendix E (page E-42) of the Encroachment Permit Manual. For placement of aerial lines, installation or removal of overhead conductors crossing a freeway requires traffic control by the California Highway Patrol (CHP) and usually occur on weekend mornings. The CHP can perform a rolling break in traffic on most highways to allow up to a five-minute clearing. These breaks are adequate for simple cable

*"Caltrans improves mobility across California"*