

**DATE: DECEMBER 7, 2010**

**FROM: ENVIRONMENTAL MANAGEMENT DIVISION**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVAL OF MEMORANDUM OF UNDERSTANDING AMONG THE STATE OF CALIFORNIA, THE ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY AND THE CITY OF LOS ANGELES ON THE TEMPORARY RELOCATION OF THE PEREGRINE FALCON NESTING HABITAT**

**SUMMARY:**

Staff requests approval of a Memorandum of Understanding (MOU) among the City of Los Angeles Harbor Department (Harbor Department), the State of California Department of Transportation (State), and the Alameda Corridor Transportation Authority (ACTA) on the temporary relocation of peregrine falcon nesting habitat (Transmittal 1) as part of the replacement of the State's Schuyler Heim Bridge. The Harbor Department would agree to allow the State to relocate an existing peregrine falcon nesting habitat located on the Schuyler Heim Bridge to the Harbor Department's Badger Avenue Railroad Bridge during construction of the new bridge, as well as all necessary access to Harbor Department property to accomplish the relocation. The nest will be relocated back to the new Schuyler Heim Bridge once construction is complete.

**RECOMMENDATIONS:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Approve the Memorandum of Understanding among the City of Los Angeles Harbor Department, the State of California Department of Transportation, and the Alameda Corridor Transportation Authority;
2. Authorize the Executive Director to execute and the Board Secretary to attest to said Memorandum of Understanding; and
3. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background – The Schuyler Heim Bridge, a vehicular lift bridge, does not meet current seismic design requirements and therefore the State intends to replace the Schuyler Heim Bridge with a fixed span bridge. Part of this project includes an environmental

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commitment to temporarily relocate a peregrine nesting habitat from the existing Schuyler Heim Highway Bridge to an adjacent location prior to demolition of the bridge. The State has determined that the Harbor Department's Badger Avenue Railroad Bridge will be the best location for the temporary nesting habitat relocation.

The Harbor Department owns the Badger Avenue Bridge and requested that the State enter into an MOU with the Harbor Department in order to allow the State to relocate the peregrine nesting habitat to the Badger Avenue Bridge. The MOU clearly specifies the responsibilities of the State and ACTA, as well as Harbor Department, during the temporary relocation of the peregrine nesting habitat. The relocation will follow procedures and protocols detailed in the Relocation Plan (Attachment B to the MOU), developed by ACTA's consultant falcon expert, URS, with oversight of California Department of Fish and Game.

The State and ACTA entered into a Cooperative Agreement on July 16, 2009, specifying responsibilities of the State and ACTA on the Project. This agreement specifies that ACTA will obtain the necessary permits, agreements, and/or approvals from appropriate regulatory agencies and that ACTA will be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permits, agreements, and approvals for the bridge construction.

Memorandum of Understanding – Harbor Department Environmental Management staff is proposing that the Harbor Department, the State and ACTA enter into an MOU to define the responsibilities of each party during the relocation project. The agreement calls for Harbor Department to allow the relocation of the peregrine nesting habitat to the Badger Avenue Bridge during construction of the new Schuyler Heim Bridge, and grant any required access to the State, ACTA, or their contractors in order to perform the relocation project. The agreement also specifies that Harbor Department shall not contribute financially to the relocation, and that it shall comply with all state and federal laws and regulations regarding the protection of the peregrines while they are on the Badger Avenue Bridge.

Term of Agreement – The termination date of this MOU shall be July 31, 2016.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is the approval of an MOU for an environmental commitment previously assessed in the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and included in the Record of Decision for the Schuyler Heim Bridge Replacement Project approved by Caltrans on August 12, 2009. As such, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (i) of the Los Angeles City CEQA Guidelines.

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**FINANCIAL IMPACT:**

There are no costs to Harbor Department associated with this proposed MOU.

**ECONOMIC BENEFITS:**

This Board action will have no direct employment effect.

**CITY ATTORNEY:**

The City Attorney has approved as to form and legality the attached Memorandum of Understanding.

**TRANSMITTAL:**

1. Memorandum of Understanding

**FIS Approval: \_\_\_\_\_**

**CHRISTOPHER CANNON**  
Director of Environmental Management

**MICHAEL R. CHRISTENSEN**  
Deputy Executive Director

**APPROVED:**

**GERALDINE KNATZ, Ph.D.**  
Executive Director

AUTHOR: KAT PRICKETT  
BOARD MEETING: 12/16/2010

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