

**Appendix G. Cultural Resources Memorandum of Agreement**

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## MEMORANDUM OF AGREEMENT

*Whereas*, The Ak-Chin Indian Community (AIC) and Del Webb Corporation (Del Webb) have requested the Bureau of Reclamation (Reclamation) to provide leased settlement water to Del Webb under the Ak-Chin Option and Lease Agreement; and

*Whereas*, Reclamation (Phoenix Area Office) has determined that the provision of leased settlement water under the Ak-Chin Option and Lease Agreement is an undertaking which will have an effect, pursuant to 36 CFR Part 800.9(b), on historic properties eligible for listing on the National Register of Historic Places, and the State Historic Preservation Officer has concurred with this determination; and

*Whereas*, Reclamation has determined that the undertaking will have an effect on the following eligible properties: archaeological sites AZ:T:4:119, AZ:T:4:121, AZ:T:4:122, AZ:T:4:125, and AZ:T:4:128 (all ASM), and an indirect effect on archaeological site AZ:T:4:124 (ASM); and

*Whereas*, Reclamation has consulted with the Arizona State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the Council's implementing regulations 36 CFR Part 800; and

*Whereas*, the U.S. Army Corps of Engineers (COE), Ak-Chin Indian Community (AIC), Salt River Pima-Maricopa Indian Community (SRPMIC), Gila River Indian Community (GRIC), Tohono O'odham Nation (TON), Yavapai-Prescott Indian Tribe (YPIT), Arizona State Land Department (ASLD), Arizona State Museum (ASM), and Del Webb Corporation (DWC) participated in the consultation and have been invited to concur in this Memorandum of Agreement (MOA); and

*Now, Therefore*, Reclamation, the SHPO, and the Council agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

### Stipulations

Reclamation will ensure that the following measures are carried out:

#### STIPULATION 1

##### Development and Implementation of a Historic Property Treatment Plan

Reclamation will ensure that a Historic Property Treatment Plan (HPTP) is developed, in consultation with the Council, the SHPO, and concurring parties. The HPTP shall be consistent with the Secretary of the Interior's *Standards and Guidelines for Archaeology and*

*Historic Preservation.* It shall be based on the data and results of the Class III (inventory) cultural resource survey, consultation on traditional cultural properties, and field visits to the sites by Reclamation archaeologists, SHPO, tribal representatives, and the developer's archaeological consultant. Reclamation shall submit a draft HPTP to the SHPO, Council, COE, AIC, SRPMIC, GRIC, TON, YPIT, ASLD, ASM, and DWC for a four week (28 days) review period. Reclamation shall ensure that the HPTP is finalized to address comments by those parties and then implemented.

At a minimum the HPTP shall address the following:

- A. Avoidance plan for archaeological site AZ:T:4:124 (ASM) and that portion of site AZ:T:4:119 (ASM) that contains a traditional cultural property (TPC) as defined by tribal representatives.
- B. An archaeological data recovery plan for archaeological sites AZ:T:4:119 excluding the TPC, AZ:T:4:121, AZ:T:4:122, AZ:T:4:125, and AZ:T:4:128 (all ASM). The plan shall include discussion of the following:
  1. Description of the eligible archaeological properties, including an explanation of their significance;
  2. Research topics and questions to be addressed, including theoretical orientation;
  3. Field and analytical methods to be employed;
  4. Data management techniques to be employed; and
  5. Dissemination of data and results of the investigation, including draft and final reports, number of final reports printed, and plans for their distribution;
- C. A plan for the permanent curation of the project archaeological collection, including artifacts, records, data, and other items, in a facility that meets the standards proscribed in 36 CFR part 79, *Curation of Federally-owned and Administered Archaeological Collections*.
- D. A schedule for implementation of the HPTP.
- E. Native American Indian Tribes and Public involvement provisions.
  1. Discussion of the views presented by Indian tribes, individual Native Americans, and the general public on the identification, evaluation, and treatment of historic properties;
  2. Discussion of how their views have been addressed within the HPTP; and
  3. Discussion of the proposed measures for continuing to involve the Native American Indian tribes and the public in the future, including generation of a data recovery report that is geared for the non-professional public
- F. A plan for monitoring the effectiveness of the preservation mechanisms minimizing future adverse effects on the historic properties.

**STIPULATION 2**  
**Draft Data Recovery Report Review**

Reclamation shall submit a draft technical report resulting from the implementation of Stipulation 1, to the SHPO, Council, COE, AIC, SRPMIC, GRIC, TON, YPIT, ASLD, ASM, and DWC for review and comment. The reviewers shall have forty-five (45) days to respond to Reclamation with comments. Failure to respond by any party within the comment period shall not prohibit Reclamation from finalizing the report. Reclamation shall ensure that comments received during the comment period are addressed in the final published version of the report.

**STIPULATION 3**  
**Treatment of Human Remains and Associated Funerary Objects**

Treatment of human remains and associated funerary objects shall follow the requirements and specifications contained in an agreement document prepared under Arizona Law A.R.S. 41-865. An agreement shall be finalized for any data recovery, or any feature studies. Human remains shall not be disturbed prior to this agreement being in place.

**STIPULATION 4**  
**Discovery of Unknown Cultural Resources**

Reclamation shall ensure that a plan for the treatment of historic properties discovered during ground disturbing activities is prepared and implemented as part of the HPTP.

If cultural deposits are discovered during the project ground disturbing activities, Del Webb shall cause a temporary halt to those activities that may affect such deposits, and take steps to ensure that the area of the discovery is protected and secured as specified in the plan, and shall immediately notify Reclamation. Reclamation shall, within 72 hours, notify the Council, SHPO, and concurring parties of the nature of the discovery and the proposed treatment, which shall be in accordance with to the HPTP-Discovery Plan; written confirmation will follow within seven (7) days from the discovery. Reclamation shall seek comment from all parties on the proposed treatment plan. Reclamation shall ensure that the treatment plan is then implemented, but no later than seven (7) days from the notification to Reclamation.

In addition, discoveries made during project ground disturbing activities on state land, including discoveries of human remains, shall be treated according to Arizona Law A.R.S. §41-844.

**STIPULATION 5**  
**Curation**

Reclamation shall ensure that all materials and records resulting from the implementation of this agreement are curated in accordance with 36 CFR Part 79, except where an alternative

plan for disposition of human remains and associated funerary objects is developed in accordance with Stipulations 3 and 4.

**STIPULATION 6**  
**Archaeological Report Dissemination**

Reclamation shall ensure that all final archaeological reports resulting from actions pursuant to this agreement will be provided to the Council, SHPO, concurring parties and interested public. Reclamation shall ensure that the reports are responsive to contemporary professional standards, and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Program* (42 FR 5377-79).

**STIPULATION 7**  
**Professional Qualifications**

Reclamation shall ensure that all historic preservation work carried out pursuant to this agreement is conducted by or under the supervision of a person(s) meeting the minimum requirements for professional historic preservation personnel described in the *Secretary of the Interior's Professional Qualifications Standards* (48 FR 44738-44739).

**STIPULATION 8**  
**Dispute Resolution**

Should any party to this agreement, Native American Indian Tribe, or member of the public object within 30 days to any actions proposed or carried out pursuant to this agreement, Reclamation shall consult with the objecting party to resolve the objection. Reclamation shall notify the SHPO of any objection. If Reclamation determines that the objection cannot be resolved, Reclamation shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will either:

- a. Provide Reclamation with recommendations, which Reclamation will take into account in reaching the final decision regarding the dispute; or
- b. Notify Reclamation that it will comment pursuant to 36 CFR Part 800.6 (b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by Reclamation in accordance with 36 CFR Part 800.6(3)(2) with reference to the subject of the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; Reclamation's responsibility to carry out all actions under this agreement that are not subject of the dispute will remain unchanged.

STIPULATION 9  
Amendment of this Agreement

Reclamation, the Council, or the SHPO, may request that the MOA be amended, whereupon they will consult in accordance with 36 CFR Part 800.5(e)(5).

STIPULATION 10  
Termination of this Agreement

Reclamation, the Council, or the SHPO may terminate the MOA by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, Reclamation will comply with 36 CFR Part 800.4 through 800.6.

Execution of this Memorandum of Agreement and implementation of its terms evidence that Reclamation has afforded the Council an opportunity to comment on The Villages at Desert Hills Development and its effects on historic properties, and that Reclamation has taken into account the effects of the undertaking on historic properties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: *John Fowler* Date: 10/29/97  
John Fowler, Executive Director

BUREAU OF RECLAMATION

ACTING By: *Thomas G. Burbey* Date: 10/8/97  
Thomas G. Burbey, Area Manager, Phoenix Area Office

ARIZONA STATE HISTORIC PRESERVATION OFFICER

By: *James W. Garrison* Date: 10/9/97  
James Garrison, State Historic Preservation Officer

CONCUR

U.S. ARMY CORPS OF ENGINEERS

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert L. Davis Colonel, Corps of Engineers, District Engineer

AK-CHIN INDIAN COMMUNITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Honorable William Antone, Chairman

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Honorable Ivan Makel, President

GILA RIVER INDIAN COMMUNITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Honorable Mary Thomas, Governor

TOHONO O'ODHAM NATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Honorable Edward D. Manuel, Chairman

YAVAPAI-PRESCOTT INDIAN TRIBE

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Honorable Stan Rice, Jr., President

ARIZONA STATE LAND DEPARTMENT

By: \_\_\_\_\_ Date: \_\_\_\_\_  
J. Dennis Wells, State Land Commissioner

ARIZONA STATE MUSEUM

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Dr. George J. Gurnerman, Director



DEL WEBB CORPORATION

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Anne L. Mariucci, Senior Vice-President

