

**MEMORANDUM OF UNDERSTANDING
REGARDING NATIVE AMERICAN HUMAN REMAINS
AND ASSOCIATED MATERIALS ENCOUNTERED AS A RESULT OF
SUBSURFACE ARCHAEOLOGICAL TESTING OF SITES AZ U:10:20
AND AZ U:10:25 (ASU), AND AZ U:10:60 THROUGH AZ U:10:68
(ASM) AT WILLIAMS AIR FORCE BASE**

BETWEEN THE GILA RIVER INDIAN COMMUNITY, AK-CHIN INDIAN COMMUNITY,
SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, AND THE TOHONO
O'ODHAM INDIAN NATION; THE HOPI TRIBE; AND
THE UNITED STATES AIR FORCE

WHEREAS, the United States Air Force intends to close and dispose of real property presently known as Williams Air Force Base (AFB), and

WHEREAS, the United States Air Force is sponsoring a Class III Archaeological Survey and Subsurface Testing Project to determine the extent of archaeological remains at Williams AFB involving the intentional excavation and potential discovery of Native American Human Remains, associated funerary objects, sacred items, and objects of cultural patrimony, and

WHEREAS, the United States Air Force is responsible for the identification, protection and consultation with Native Americans regarding the disposition of Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony located on lands under their ownership and control pursuant to the Native American Graves Protection and Repatriation Act of 1990 (25 USC 3002) (NAGPRA), and

WHEREAS, the The Gila River Indian Community, Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, The Tohono O'odham Indian Nation, and The Hopi Tribe (Tribes) have claims of cultural or ancestral affiliation in the area now within the boundaries of Williams AFB and all Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony associated with said groups are claimed by under Section 3 of the Native American Graves Protection and Repatriation Act of 1990, and

WHEREAS, other Tribes may come forward with claims of Cultural Affiliation under Section 3 of the Native American Graves Protection and Repatriation Act of 1990, and

WHEREAS, those Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony so claimed by the Tribes are considered to be the property of the Tribes pursuant to the Native American Graves Protection and Repatriation Act of 1990, and

From Julia A. Carbell

HQ AFCEE/ECP

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WHEREAS, it is the intent of the Air Force to minimize any unavoidable damage to Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony discovered during the Williams AFB Class III Archaeological Survey and Subsurface Testing by ensuring that they are, for their protection, to be left *in situ*, and the earth in which they are found is returned to the greatest extent possible a condition consistent with pre-survey conditions, and

WHEREAS, Section 11 of the Native American Graves Protection and Repatriation Act of 1990 permits and encourages specific agency-tribal agreements to ensure the appropriate treatment of Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony;

NOW THEREFORE, the United States Air Force and the Tribes agree that the following procedures will be followed for the discovery, treatment, and disposition of all Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony of the Tribes which are discovered on lands that are owned or controlled by the United States Air Force during the Williams Air Force Base Class III Archaeological Survey and Subsurface Testing.

STIPULATIONS

I. DEFINITIONS

For the purposes of this Memorandum of Understanding (MOU), the following definitions apply:

1. ***Associated Funerary Objects*** means objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with the individual Human Remains at the time of death or later.
2. ***Cultural Affiliation*** means a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian Tribe and an identifiable earlier group.
3. ***Discovery*** means the intentional excavation per Section 3.c. of NAGPRA and subsurface testing of sites AZ U:10:20 and AZ U:10:25 (ASU), and AZ U:10:60 through AZ U:10:68 (ASM) for the purpose of determining their extent and eligibility for inclusion on the National Register of Historic Places and the discovery, identification and recovery of Native American Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony as defined herein within the property lines of the Williams Air Force Base.
4. ***Human Remains*** are any physical remains of a human being.
5. ***Interested Tribe*** shall, for the purposes of this MOU, mean any Tribe that has cultural affiliation with a Discovery and that has represented an intent to participate in the treatment and disposition of Remains.
6. ***Objects of Cultural Patrimony*** are objects having ongoing historical, traditional, or cultural importance central to Native American group or culture itself, rather than property owned by an individual Native American. Objects of Cultural Patrimony cannot be alienated, appropriated, or conveyed by an individual regardless of whether or not the individual is a member of the Native American group, and such objects must have been considered inalienable at the time they were separated from the group.
7. ***Remains*** means Human Remains, any remains thought to be Human Remains, and all other Cultural Items as defined by NAGPRA, including Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony.
8. ***Sacred Objects*** are specific ceremonial objects that are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.

9. **Tribal Monitor** shall, for the purposes of this MOU, mean an observer chosen by the Tribes to watch and/or participate in the archaeological activities to be conducted at Williams AFB.
10. **Tribe** means any tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the programs and services provided by the United States to Indians because of their status as Indians.

II. DISCOVERY, TREATMENT, AND DISPOSITION OF REMAINS

1. The following procedures regarding the discovery, treatment, and disposition of Remains shall be implemented after consultation and in accordance with the express wish of or in conformity with the policies and guidelines of the Tribes.
2. All discovered Remains shall be treated with respect and dignity in order to avoid any unnecessary disturbance of Remains, separation of Human Remains from their Associated Funerary Objects, or physical modification of Remains.
3. All Remains discovered during the course of the Williams AFB Class III Archaeological Survey and Subsurface Testing shall receive the agreed upon treatment and disposition measures set forth herein.
4. The intentional subsurface testing of sites AZ U:10:20 and AZ U:10:25 (ASU), and AZ U:10:60 through AZ U:10:68 (ASM) for the purpose of determining their extent and eligibility for inclusion on the National Register of Historic Places and the discovery, identification and recovery of Native American Human Remains and Associated Funerary Objects shall be undertaken in accordance with the Standards of Research Performance of the Society of Professional Archaeologists and the professional standards for archaeological data recovery as established in the Research Design and Plan of Work approved for this Class III Archaeological Survey and Subsurface Testing project by the U.S. Air Force, the Tribes, and the State Historic Preservation Officer (SHPO) for Arizona.
5. A Tribal Monitor, to be chosen by the Tribes, will be on-site at all times during excavations and subsurface testing at Williams AFB to advise the archaeologist and identify and monitor the treatment of Human Remains, Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony.
6. Unless otherwise agreed between the U.S. Air Force, the Tribes, and any other interested Tribe subsequently signatory to this agreement, the treatment and disposition of Human Remains shall be conducted as described in the Archaeologist's Plan of Work, attached here by reference, and as follows:
 - a. All Human Remains and Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony discovered at Williams AFB shall be left *in situ*, as undisturbed as is reasonably possible to assure their protection. If the lineal

descendants of the Native American (whose remains are discovered) cannot be identified, then Representatives of Interested Tribes shall be consulted regarding the disposition and reinterment of the Remains and shall be given an opportunity to carry out religious ceremonies/rituals attendant upon reinterment of the Remains.

- b. If excavation of Native American Human Remains and Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony is requested by the Tribes, reinterment of the Native American Human Remains and Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony shall occur within ninety (90) days of the completion of the Williams AFB Class III Archaeological Survey and Subsurface Testing.
 - c. No destructive analyses of the Human Remains shall be permitted.
7. If excavation and reinterment of Remains is requested, the Tribal Monitor and representatives of the Tribes and any other Interested Tribe subsequently signatory to this agreement shall have the opportunity to be present during the excavation, treatment, and disposition of the Remains in order to ensure the recognition of all Associated Funerary Objects.
 8. Representatives of the Tribes and any other interested Tribe subsequently signatory to this agreement shall be afforded the opportunity prior to reinterment to review all artifact collections and records from the Class III Archaeological Survey and Subsurface Testing in order to identify Associated Funerary Objects, Sacred Objects, and Objects of Cultural Patrimony.
 9. The Tribal Chairman, President, Chairman's Designated Representative, Tribal Cultural Preservation Officer, Tribal Monitor or other Designated Representative as appropriate for each Interested Tribe, shall be responsible for the timely and expeditious treatment and disposition of the Remains.
 10. No excavated Human Remains shall be put on public display in any manner nor photographed except for the purpose of scientific documentation and only with the express consent of the affected tribal group(s). No photographs of the Human Remains shall be distributed or published without the written permission of the Tribes and any other interested Tribe subsequently signatory to this agreement.
 11. In those instances where Cultural Affiliation cannot be determined and/or the Tribes do not state a claim to the Remains, the U.S. Air Force shall determine their treatment and disposition in consultation with other potentially Interested Tribes.
 12. The location of the discovery shall be reported solely to the appropriate U.S. Air Force land manager(s) having immediate administrative responsibility and to the Tribal Chairman, President, Chairman's Designated Representative, Cultural Preservation Officer, Tribal Monitor or other Designated Representative as appropriate, of the Tribes and any other interested Tribe subsequently signatory to this agreement.

13. The specific location of the discovery of Remains shall be withheld from disclosure and protected to the fullest extent allowed by law.
14. Within ninety (90) days after the disposition of the Remains, the Air Force shall submit a final report documenting the discovery, treatment, and disposition of those Remains to the Tribes and any other interested Tribe subsequently signatory to this agreement.

III. DISPUTE RESOLUTION

All disputes regarding the Cultural Affiliation of Discovered Remains shall be resolved in accordance with Sections 2 and 3 of the Native American Graves Protection and Repatriation Act and the procedures set forth in this agreement; such disputes shall not interfere with the Class III Archaeological Survey and Subsurface Testing as set forth above nor with the closure or reuse of Williams Air Force Base.

1. The U.S. Air Force shall seek out the comments of Interested Tribes regarding the procedures set forth in this MOU. Should any Interested Tribe make a conflicting claim of Cultural Affiliation or dispute the methods of treatment or disposition of Remains as set forth herein, the U.S. Air Force shall convene a meeting with the disputing parties within thirty (30) days of receiving notice of disputation.
2. The disputing parties shall attempt to reach a resolution with the assistance of the U.S. Air Force.
3. If a resolution cannot be reached within ninety (90) days, the U.S. Air Force shall forward all pertinent documentation to the Review Committee established under NAGPRA with a request for the Committee to provide their recommendations.
4. If, upon receipt of the recommendations of the Review Committee it still cannot be determined which requesting party is the most appropriate claimant, the U.S. Air Force may retain the disputed Remains until the requesting parties agree upon their disposition or the dispute is otherwise resolved pursuant to the provisions of NAGPRA or by a court of competent jurisdiction.

IV. TERM AND AMENDMENTS

This MOU shall remain in effect until the disposition of all Remains discovered during the Williams AFB Class III Archaeological Survey and Subsurface Testing has been completed. It may be amended only by the written consent of all parties hereto at the time of such amendment.

V. ADDITIONAL PARTIES

Interested Tribes claiming lineal descent or cultural affiliation may join and execute this MOU at a later date should they express a desire to do so.

THE TRIBES

GILA RIVER INDIAN COMMUNITY

By: _____ Date: _____

Title: _____

SALT RIVER PIMA-MARICOPA INDIAN COMMUNIT

By: _____ Date: _____

Title: _____

AK-CHIN INDIAN COMMUNITY

By: _____ Date: _____

Title: _____

TOHONO O'ODHAM INDIAN NATION

By: _____ Date: _____

Title: _____

THE HOPI TRIBE

By: _____ Date: _____

Title: _____

UNITED STATES AIR FORCE

By: _____ Date: _____

Title: _____

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