

MICROFILMED

Case #01-14

**BURIAL DISCOVERIES ON CITY OF TEMPE LANDS OR PROJECTS
CONDUCTED BY THE CITY OF TEMPE**

This agreement is intended to facilitate compliance with A.R.S. §41-844 and A.R.S. §41-865 on projects initiated and conducted by the City of Tempe, and on property held by the City of Tempe. The terms of this agreement will be interpreted and implemented in a manner consistent with terms, definitions, and principles provided in A.R.S. §41-844 and A.R.S. §41-865, *Rules* revised November, 20, 1991, and current *Guidelines* issued by the Coordinator, ASM.

Tribes claiming affinity with native cultural traditions in the City of Tempe are the Gila River Indian Community (GRIC), the Ak-Chin Indian Community (Ak-Chin), the Salt River Pima Maricopa Indian Community (SRPMIC), the Tohono O'odham Nation (TON), the Hopi Tribe (Hopi), the Fort McDowell Mohave-Apache Indian Community (Fort McDowell), and the Yavapai-Apache Tribe (Yavapai-Apache). These groups will be referred to collectively in this document as the Tribes.

The SRPMIC represents those claiming cultural affiliation with the O'odham, Hohokam and Archaic occupations (GRIC, Ak-Chin, SRPMIC, TON, and Hopi) north of Baseline Road, while the GRIC represents the same groups south of Baseline Road. Fort McDowell is responsible for implementation of this agreement when Remains are Apache or Yavapai.

I. DISCOVERY OF REMAINS**A. Projects Expected to Discover Remains**

1. The Coordinator, ASM, the Tribes and the City of Tempe agree that when the City of Tempe plans archaeological or other undertakings believed likely to discover Remains, the Coordinator will be notified.

The Coordinator will consult the SRPMIC, GRIC, or Fort McDowell (depending upon location and potential cultural affiliations) and the City of Tempe to assess whether a project-specific agreement is needed, or whether work should proceed under the terms of this general agreement.

2. If it is decided that a project will be administered under this agreement, the City of Tempe will notify the Coordinator prior to initiating fieldwork (in individual phases, if appropriate), and will notify the Coordinator that the agreement has been activated by an initial

discovery. After that initial discovery, individual burials will not require notice to the Coordinator. Instead, a letter indicating total numbers of burials and confirming compliance with the terms of the agreement will be submitted to the Coordinator within 30 days of completing compliance with the terms of the agreement (normally, the time at which remains are repatriated to the appropriate tribe).

The Coordinator will be notified and will initiate consultation regarding individual cases in which cultural association is uncertain or is known to be of a tradition not claimed by the Tribes.

B. Unexpected Discoveries

The Coordinator, ASM, the Tribes, and the City of Tempe agree that the following provisions and procedures will apply in any case of inadvertent and unexpected discovery of Remains as a consequence of a City of Tempe undertaking or on City of Tempe property:

1. When remains or objects that may be subject to A.R.S. §41-844 and A.R.S. §41-865 are discovered the City of Tempe is authorized to undertake limited additional excavation and examination to assess whether the materials are within the protected classes of remains and objects prior to notification of the Coordinator and claimants.
2. If the City of Tempe and its contractors are unable to determine whether materials are Remains protected under the statutes, the Coordinator will be notified and will make this determination, with the assistance of specialists as needed.
3. The City of Tempe will notify the Coordinator (if not already consulted) and the SRPMIC or GRIC of the discovery within 24 hours of confirmation that the discovery falls within the protected classes. If the Remains are of Apache origin, or are not clearly identifiable as belonging to a cultural tradition other than Apache, Fort McDowell will also be notified by the City of Tempe.
4. If it is determined that the Remains represent a cultural tradition not claimed by the SRPMIC or GRIC or Fort McDowell, the Coordinator will undertake notification and consultation of appropriate parties.
5. If efforts to contact the SRPMIC or GRIC, Fort McDowell, and the Coordinator are unsuccessful, and Remains are endangered by human or natural action, the City of Tempe is authorized to proceed with removal of the Remains to a local secure facility for their protection. Written notice of this action must be provided to the SRPMIC or GRIC, or to Fort McDowell when there is reason to believe that the Remains may be Apache or Yavapai in origin, and to the Coordinator within 3 days of removal.

II. TREATMENT AND DISPOSITION OF REMAINS

The following provisions for the treatment and disposition of Remains reference the SRPMIC or GRIC. However, when Remains are of Apache origin, "Fort McDowell" will be substituted for "SRPMIC" or "GRIC" in all provisions below.

Unless otherwise agreed between the City of Tempe, the Tribes, and the ASM Coordinator, the treatment and disposition of Human Remains shall be as follows:

1. 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 modifications of Human Remains.
2. Whenever possible, Remains will be protected in place. The SRPMIC or GRIC will be consulted regarding whether the security of the location is adequate.
3. If avoidance and protection of Remains is not possible, removal will proceed according to the following provisions:
 - a. Representatives of the SRPMIC or GRIC shall have the opportunity to be present during the excavation of the Remains. The City of Tempe will provide to the SRPMIC or GRIC an opportunity to examine the Remains prior to removal and to conduct traditional activities, if this is feasible without delay that would endanger those Remains.
 - b. Remains will be excavated in accordance with the provisions and standards of the Arizona Antiquities Act and implementing Rules, and of Guidelines current at the time of the discovery.
 - c. Remains and associated objects may be transported to an archaeological facility within the Tempe-Phoenix metropolitan area (including adjacent incorporated cities) for archaeological inventory and description. Under no circumstances will Remains or associated Objects be taken out of the State of Arizona. Transport of Remains will be minimized.
 - d. No destructive analysis of Human Remains shall be permitted except with the written permission of the Tribes. A letter on tribal letterhead granting permission must be obtained from each Tribe by the person or persons requesting permission to conduct the analysis, and a copy of this letter must be provided to the ASM Coordinator before analysis is undertaken.
 - e. Washing of the interior of cremation vessels is prohibited; the exterior of cremation vessels can be wiped with a dry or damp cloth.
 - f. No pollen or flotation samples may be removed from burial pit fill dirt or from cremation vessel fill without the written permission of the Tribes.
 - g. Burial vessels cannot be reconstructed using tape or glue.

h. If specialized analysis of burial objects (including pollen or flotation samples removed with the permission of the Tribes) might require transport to a location outside southern and central Arizona, the written permission of the Tribes must be obtained prior to transport.

i. No photographs of Remains may be taken without the written permission of the Tribes. Drawings of Human Remains and Funerary Objects will be made and can be used in publications unless the Tribes determine that they are of a sensitive nature.

j. Remains will be packaged in cardboard, paper, or other non-synthetic materials.

4. Representatives of the claimant Tribes shall be afforded the opportunity to review all artifact collections and records resulting from activities of the City of Tempe and their contractors in order to identify Funerary or Sacred Objects. If such objects are identified, the Coordinator will be notified by the Tribes and the Coordinator will determine whether the Objects fall within the appropriate classification. If they do fulfill the requirements specified in A.R.S. §41-844 and the Rules and Guidelines, the Coordinator will initiate consultation regarding their treatment and disposition.

5. Copies of all publications arising from archaeological activities in the project area shall be provided to the Coordinator, ASM, and to the Tribes by the City of Tempe. An inventory of all Remains repatriated shall be submitted to the Coordinator within 30 days of repatriation.

6. The location of the discovery of Remains that are to be preserved in place will be protected to the extent allowed by law, and will not be included in any public or professional publications having an unrestricted distribution.

7. All Tribes reserve the right to participate in reburials under this agreement, after notice to the SRPMIC or GRIC.

8. The City of Tempe will turn over to the SRPMIC or GRIC all Remains of relevant cultural affiliation that are removed from the project area. Remains may be temporarily inventoried and stored in local archaeological facilities, but will be made available to the SRPMIC or GRIC for repatriation within a specified period after completion of fieldwork, to be negotiated between the SRPMIC or GRIC and the City of Tempe in each case.

9. An inventory and report of Remains encountered and their disposition (including inventory of remains and associated objects and maps and photographs, as specified in the Rules implementing A.R.S. §41-844 and A.R.S. §41-865) will be submitted to the Coordinator and to the Tribes by the City of Tempe.

III. DISPUTE RESOLUTION

All disputes shall be resolved in accordance with A.R.S. §41-844 and A.R.S. §41-865 and the procedures set for in the *Rules* implementing that statute and *Guidelines* current at the time of the dispute. Such dispute shall not interfere with or delay ongoing archaeological or construction work in the project area. If the nature of the dispute does not involve issues of cultural affiliation, the dispute will not delay repatriation of Remains.

PARTIES:

GILA RIVER INDIAN COMMUNITY

By: *Parvath Kintore*
Title: *Governor*

Date: *10/2/01*

HOPI TRIBE

By: _____
Title: _____

Date: _____

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

By: _____
Title: _____

Date: _____

FORT MCDOWELL MOHAVE-APACHE INDIAN COMMUNITY

By: _____
Title: _____

Date: _____

YAVAPAI-APACHE NATION

By: _____
Title: _____

Date: _____

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PARTIES:

GILA RIVER INDIAN COMMUNITY

By: _____

Date: _____

Title: _____

HOPI TRIBE

By: _____

Date: 7/20/01

Title: HCPD Director

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

By: _____

Date: _____

Title: _____

FORT MCDOWELL MOHAVE-APACHE INDIAN COMMUNITY

By: _____

Date: _____

Title: _____

YAVAPAI-APACHE NATION

By: _____

Date: _____

Title: _____

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY**
10,005 East Osborn Road
Scottsdale, Arizona 85256

RESOLUTION NUMBER: SR-2129-2002

WHEREAS, the Salt River Pima-Maricopa Indian Community ("SRPMIC") Council has the authority under Art. VII, § 1(h) of the SRPMIC Constitution to enter into intergovernmental agreements ("IGA") and the authority under Art. VII, § 1 (c)(10) to preserve historic and prehistoric arts, crafts, beliefs, practices, sites and other artifacts culturally important to the people of the Community; and

WHEREAS, the Salt River Pima-Maricopa Indian Community Council is aware of the need for various jurisdictions to cooperate in the management, conservation and protection of cultural resources; and

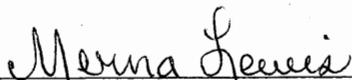
WHEREAS, the attached IGA sets forth the procedures for cooperation between the Salt River Pima-Maricopa Indian Community and the City of Tempe regarding repatriation of cultural materials and burials associated with any City of Tempe funded projects.

NOW THEREFORE BE IT RESOLVED, that the Salt River Pima-Maricopa Indian Community Council hereby approves the execution of the Intergovernmental Agreement entitled "Intergovernmental Agreement for Burial Discoveries on City of Tempe Lands or Projects Conducted by the City of Tempe" between City of Tempe and concurring affected parties, including the Salt River Pima-Maricopa Indian Community and the Council authorizes the President or Vice President to take all steps reasonably necessary to and in aid of carrying out the purpose and intent of this Resolution.

C E R T I F I C A T I O N

Pursuant to the authority contained in Article VII, Section 1(h) of the Constitution of the Salt River Pima-Maricopa Indian Community, ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing resolution was adopted this 14th day of November, 2001, by the Community Council in Salt River, Arizona at which a quorum of 8 members were present by a vote of 8 for; 0 against and 1 excused.

**SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL**


Merna Lewis, Vice President

ATTEST:


Erica Harvier, Secretary

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PARTIES:

GILA RIVER INDIAN COMMUNITY

By: _____ Date: _____

Title: _____

HOPI TRIBE

By: _____ Date: _____

Title: _____

SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

By: _____ Date: _____

Title: _____

FORT MCDOWELL MOHAVE-APACHE INDIAN COMMUNITY

By: Mary Jo Mattson Date: July 26, 2001

Title: Director Cultural Development

YAVAPAI-APACHE NATION

By: _____ Date: _____

Title: _____

ARIZONA STATE MUSEUM

By:

Steph J. Deacon
Title: Repatriation Coordinator

Date:

8/30/01

CITY OF TEMPE

By:

JOSEPH G. NUCCI
Title: Tempe Historic Preservation Officer

Date:

8/10/2001

RESOLUTION NO. 2001.34

**A RESOLUTION OF THE CITY COUNCIL OF TEMPE,
ARIZONA AUTHORIZING EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT FOR
TREATMENT AND DISPOSITION OF BURRIALS AND
ASSOCIATED OBJECTS ON CITY OWNED LAND OR
PROJECTS CONDUCTED BY THE CITY OF TEMPE.**

WHEREAS, the State of Arizona requires protection of certain remains or objects with cultural association to Native American Tribes and statutes prescribe methods and practices to implement this protection; and

WHEREAS, the City of Tempe recognizes a duty to report discoveries and a responsibility to treat disposition of remains or objects which the City of Tempe considers it reasonable to discover in a manner appropriate to the concerns and respectful of the beliefs of all parties; and

WHEREAS, the Arizona State Museum and certain Native American Tribes have requested that the City of Tempe anticipate the probability of such discoveries related to planned and future development activities on projects initiated and conducted by the City of Tempe, and on property held by the City of Tempe; and

WHEREAS, the City of Tempe wishes to be prepared to meet these responsibilities in the most respectful and appropriate manner;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE ARIZONA, as follows:

Section 1: The Intergovernmental Agreement Respecting Burial Discoveries On City Of Tempe Lands Or Projects Conducted By The City Of Tempe is hereby approved and,

Section 2: The Historic Preservation Officer is authorized and directed to execute the Intergovernmental Agreement with the affected Tribes, the Arizona State Museum, and the State Historic Preservation Office.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this 9th day of Aug , 2001.

Neil G. Giuliano
Mayor Neil G. Giuliano

ATTEST: Kathy M. [Signature]
City Clerk

APPROVED AS TO FORM:
C. Brad Woodford
City Attorney