

AMENDMENT TWO

PROGRAMMATIC AGREEMENT

BETWEEN THE U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER

REGARDING THE ISSUANCE OF A PERMIT (#2003500469) UNDER SECTION 404
OF THE CLEAN WATER ACT FOR THE SUMMERLIN WEST PROJECT, CLARK
COUNTY, NEVADA

WHEREAS, the U.S. Army Corps of Engineers, Sacramento District (Corps) and the Nevada State Historic Preservation Officer (SHPO) on August 26, 2005 executed a Programmatic Agreement (PA) pursuant to 36 CFR 800, the implementing regulations of the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq*); and

WHEREAS, Amendment One to the PA was executed on February 20, 2007; and

WHEREAS, on April 16, 2009, The Howard Hughes Corporation's (THHC) parent company, General Growth Properties, Inc. and certain of its subsidiaries, including THHC, filed a Chapter 11 case under the United States Bankruptcy Code, 11 U.S.C. Section 101, *et seq.* identified as Case No. 09-11998 (the "Bankruptcy Case") filed in the United States Bankruptcy Court of the Southern District of New York. THHC emerged from the Bankruptcy Case on November 9, 2010; and

WHEREAS, in December 2009, THHC was converted to a limited liability company and renamed The Howard Hughes Company, LLC. All references in the PA, and any amendments thereto, to "THHC" shall be deemed to refer to The Howard Hughes Company, LLC; and

WHEREAS, local, regional, and national economic conditions since 2007 resulted in significant changes to the residential, retail, and commercial markets in the Las Vegas Valley, including Summerlin West. Therefore, the duration of the long-range Summerlin Master Plan is now estimated to be 40 years; and

WHEREAS, other than those stipulations subject to this Amendment Two, the remaining stipulations of the PA and Amendment One remain in effect without change; and

WHEREAS, pursuant to 36 CFR 800.6(a) (1) this Amendment will be provided by the Corps to the Advisory Council on Historic Preservation (Council); and

WHEREAS, the Nevada Rock Art Foundation (NRAF) has withdrawn as a Concurring Party to the PA; and

WHEREAS, Amendment Two shall be effective on the last date of all signatories, including THHC as the Concurring Signatory;

NOW, THEREFORE, in accordance with Stipulation XI of the PA, Corps and SHPO agree to amend the PA as follows:

1. Amend the First Whereas clause to read:
WHEREAS, the U.S. Army Corps of Engineers, Sacramento District (Corps) issued a permit pursuant to Section 404 of the Clean Water Act (Undertaking) to the Permittee identified as The Howard Hughes Corporation/Howard Hughes Properties Incorporated for the Summerlin West Project (Project), Clark County, Nevada; and
2. Amend the Second Whereas clause to read:
WHEREAS, the Permittee intends to fill waters of the U.S. to construct infrastructure improvements for construction of residential or commercial projects in an area referred to as Summerlin West, an area of 6,529 acres, over an estimated 40 years; and
3. Amend Stipulation I. “Archaeological Monitor” to read as follows:
“Archeological Monitor” means a person or persons that meet, at a minimum, the Secretary of Interior’s Professional Qualification Standards for Archeology (48 FR 44739).
4. Amend Stipulation III.B.6 to read as follows:
The monitoring of the sites by a professional archaeologist. The PMP will outline the timing of the monitoring, the site condition reporting requirements, possible remedies for potential threats, and suggestions for mitigation for disturbances noted at the site-monitoring visit.
5. Add Stipulation III.B.7 to read as follows:
A plan for the mitigation of historic properties either inadvertently adversely affected by development activities or by vandalism and criminal intent.
6. Renumber Stipulation III.B.7 to III.B.8 and amend to read as follows:
THHC shall continue to work with the Tribes identified in this PA to establish the extent and nature of tribal participation in development of the PMP and in the long-term management of the Preserve. THHC will continue to consult with the Tribes on the following issues; means of notification to the Tribes, periodic monitoring by the Tribes, access by tribal representatives, public education, and other issues relating to the management of the Preserve. Documentation of the consultation efforts and the Tribes’ recommendations, if any, shall be included in the PMP. THHC shall identify those parts of the PMP that respond to the Tribes’ concerns.
7. Amend Stipulation III.C to read as follows:
The following schedule and reporting requirements shall be implemented:

8. Amend Stipulation III.C.1 to read as follows:
Within 30 days of execution of Amendment Two, a letter report describing how THHC has involved the Tribes (as described in III.B.8) on both a short-term and long-term basis shall be submitted to the Corps. The Corps will forward a copy to and request comments from the SHPO. THHC will address comments from the Corps and SHPO.
9. Amend Stipulation III.C.2 to read as follows:
Within 90 days of execution of Amendment Two, the draft PMP will be submitted by THHC to the Corps for review. The Corps will forward a copy to and request comments from SHPO.
10. Amend Stipulation III.C.6 to read as follows:
THHC will maintain private property/no-trespassing signs and cultural awareness signs that were installed near property boundaries and near the cultural sites. THHC will create barriers at access points to deter illegal access to the Preserve. Prior to the start of construction activities near the Preserve, THHC shall install and maintain temporary markers (e.g., fencing, flagging) to delineate the perimeter of the Preserve that will be avoided.
11. Amend Stipulation IV.B to read as follows:
The archeological inventory of Village 29 was completed and the resulting draft report was submitted by THHC to the Corps for review and comment. To the extent practicable, the Corps will complete its review of the report within 90 days of execution of Amendment Two. The Corps will consider the time lapse since the report was submitted in making its comments and the review will be completed in accordance with standards that were in effect at the time of THHC's submission of the report. THHC must address all comments to the report to the satisfaction of the Corps.
15. Amend Stipulation IV.D to read as follows:
For those sites considered eligible for the NRHP by the Corps, in consultation with the SHPO, a professional archeologist hired by THHC shall prepare a draft treatment plan. The draft treatment plan shall be submitted to the Corps by THHC within 60 days of completion of the final inventory report. The treatment plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716-37), *Treatment of Historic Properties: A Handbook* (Advisory Council on Historic Preservation 1980) and the Council's Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites dated June 17, 1999. The treatment plan must specify appropriate time periods for implementation based on the type of treatment proposed and shall include a written agreement with the Clark County Museum or other repository acceptable to the Corps and the SHPO for the curation of artifacts. The Corps shall submit the draft treatment plan to the SHPO for review. The SHPO shall have 30 calendar days from receipt of the draft treatment plan to review and comment

upon its contents. THHC shall address all comments to the satisfaction of the Corps and the SHPO.

16. Amend Stipulation XVI to read as follows:


Unless terminated pursuant to Stipulation XII above, or unless it is superseded by an amended PA, this PA will be in effect until the Corps, in consultation with the other parties to this PA, determines that all of its stipulations have been satisfactorily fulfilled. The status of the PA will be reviewed every two (2) years by the signatories and concurring parties to the PA. This PA will terminate and have no further force or effect upon the earlier of (1) a determination by the Corps that all of the terms of this PA have been satisfactorily fulfilled, or (2) termination of Permit #2003500469 in November 2020, unless the Permit is extended beyond such date in which event this PA will terminate on the extended Permit termination date. The Corps will promptly provide the other parties to this PA with written notice of its determination and of the termination of this PA. Following provision of such notice, this PA will be considered null and void.

**U.S. ARMY CORPS OF ENGINEERS
SACRAMENTO DISTRICT**

BY: 
Michael S. Jewell
Chief, Regulatory Branch

DATE: 30 January 2013

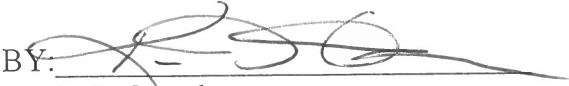
NEVADA STATE HISTORIC PRESERVATION OFFICER

BY: 
Rebecca L. Palmer
Acting State Historic Preservation Officer

DATE: 13 February 2013

CONCURRING PARTIES:

THE HOWARD HUGHES COMPANY, LLC

BY: 
Kevin T. Orrock
Vice President

DATE: 1-25-2013