

**MEMORANDUM OF AGREEMENT  
BETWEEN  
THE UNITED STATES ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT,  
AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER  
REGARDING  
THE TALUS VALLEY PROJECT,  
WASHOE COUNTY, NEVADA**

**WHEREAS**, the United States Army Corps of Engineers, Sacramento District (hereafter the “USACE”) proposes to issue a permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344) (hereafter the “Permit”) to NPLC BV Investment Company, LLC (hereafter “BV”) for the Talus Valley Project, formerly referred to as Daybreak (hereafter the “Project” or the “Undertaking”), located in Washoe County, Nevada thereby making the Undertaking subject to review under 54 U.S.C. § 306108 and its implementing regulations found at 36 CFR Part 800; and

**WHEREAS**, the Undertaking consists of a proposed approximately 791-acre residential development as depicted on the December 1, 2022, map included as ‘Attachment 1: Figure 1.1 – Project Vicinity Map’ to this Memorandum of Agreement (hereafter the “MOA”). The Undertaking is located east of the Huffaker Hills in the South Truckee Meadows of Reno, Nevada, and includes impacts to 11.6 acres of Waters of the United States; and

**WHEREAS**, the USACE, in consultation with the Nevada State Historic Preservation Officer (hereafter the “SHPO”) and in accordance with 36 CFR § 800.4(a)(1), has defined the Undertaking’s area of potential effect (hereafter the “APE”) as all geographic areas within which the Undertaking may have direct or indirect effects to historic properties as depicted on the September 13, 2022, map included as ‘Attachment 1: Figure 1.2 – Area of Potential Effect Map’ to this MOA. The area of potential effect for physical ground disturbance (hereafter the “physical ground disturbance APE”) has been determined to be approximately 791 acres. The USACE also defined an area of potential effect for potential visual, atmospheric, and audible effects to historic properties (hereafter the “viewshed APE”) as extending 1-mile from the physical ground disturbance APE. The APE totals approximately 6,498 acres; and

**WHEREAS**, the USACE, in consultation with the SHPO, has inventoried historic properties within the Undertaking’s APE and has determined that site 26WA5259 and the cultural resources listed in the July 20, 2022, table included as ‘Attachment 3: Adversely Affected Resources’ to this MOA are eligible for inclusion on the National Register of Historic Places (hereafter the “NRHP”), or are unevaluated pending further study; and

**WHEREAS**, the USACE, in consultation with the SHPO, has applied the criteria of adverse effect in accordance with 36 CFR § 800.5(a) and determined that the Undertaking will have an adverse effect on 28 historic properties/unevaluated resources located in the APE (refer to Attachment 3: Adversely Affected Resources). Direct physical adverse effects are anticipated for 23 of these resources. These include ten archaeological sites, 12 architectural resources, and one architectural district. In consideration of the resources present in the visual effects APE, and the

proposed alteration of the visual baseline conditions for the region, one structure and one architectural district would be adversely affected by the visual, atmospheric, and audible effects of the Undertaking; and

**WHEREAS**, the USACE, after careful consideration of alternatives to the Undertaking, has chosen to proceed with the Undertaking, and has determined to resolve potential adverse effects of the Undertaking on the resources listed in Attachment 3 through the execution and implementation of this MOA; and

**WHEREAS**, the BV has participated in the development of this MOA and as this MOA assigns substantial responsibilities to BV, the USACE has invited BV to participate in this MOA as an Invited Signatory, pursuant to 36 CFR § 800.6(c)(2); and

**WHEREAS**, in accordance with 36 CFR § 800.2, the USACE has consulted with the Reno-Sparks Indian Colony (RSIC), the Pyramid Lake Paiute Tribe (PLPT), and the Washoe Tribe of California and Nevada (Washoe) and invited the RSIC, PLPT, and Washoe (hereinafter collectively referred to as the “Tribes”) to participate in this MOA as Concurring Parties; and

**WHEREAS**, in accordance with 36 CFR § 800.6(a)(1), the USACE has notified the Advisory Council on Historic Preservation (hereafter the “ACHP”) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii) in a letter dated May 20, 2021; and

**WHEREAS**, 36 CFR § 800.6(c)(1-3) identifies three types of signatories to this MOA: Signatories, Invited Signatories and Concurring Parties (hereafter referred to collectively as the “Parties”); and

**WHEREAS**, any Invited Signatories that sign this MOA shall have the same rights with regard to seeking amendment or termination as other Signatories per 36 CFR § 800.6(c)(2)(i); and

**NOW, THEREFORE**, the USACE and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to resolve adverse effects of the Undertaking on historic properties.

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## STIPULATIONS

The USACE shall make this MOA a condition of its authorization for the Undertaking and shall ensure that the following measures are carried out by BV to the satisfaction of the USACE:

### I. DEFINITIONS

The definitions set forth in 36 CFR § 800.16 are incorporated herein by reference and apply throughout this MOA.

### II. AREA OF POTENTIAL EFFECTS (APE)

The USACE, in consultation with the SHPO, has defined the Undertaking's APE (Attachment 1: Figure 1.2). The USACE may amend the APE as needed, or as requested by a Signatory or Invited Signatory, without amending the MOA proper. If amended, all Parties will receive formal notification of the amended APE. Within thirty (30) calendar days of their receipt of the proposed amendment, any Party may request that the MOA be amended in accordance with the processes outlined in Stipulation XI. Following the USACE's receipt of the request, the Signatories and Invited Signatory shall prepare an amendment document.

### III. ROLES AND RESPONSIBILITIES

- A. The Project Manager for the USACE is its point of contact for the Undertaking.
- B. The President of BV, or BV's designated cultural resource management (hereafter "CRM") contractor, is the point of contact for BV.
- C. The State Historic Preservation Officer, or designee, is the point of contact for the SHPO.
- D. The USACE shall ensure that BV retains responsibility for all expenses associated with carrying out the provisions of this MOA, except for costs incurred by the Parties during fulfillment of the responsibilities assigned to them in this MOA.
- E. The USACE, in coordination with BV and in consultation with the SHPO, shall ensure that all work undertaken to satisfy the terms of this MOA meets the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716-44742, September 23, 1983) (Standards) and takes into consideration the ACHP's Section 106 Archaeology Guidance (2009; available online at [www.achp.gov/archguide](http://www.achp.gov/archguide)), and any other applicable guidelines or standards.
- F. The USACE, in coordination with BV and in consultation with the SHPO, shall ensure that ethnographic, historic, architectural, and archaeological work conducted pursuant to this MOA is carried out by or under the direct supervision of persons meeting qualifications set forth in the *Secretary of the Interior's Professional Qualifications*



*Standards* (currently available at [http://www.nps.gov/history/local-law/arch\\_stnds\\_9.htm](http://www.nps.gov/history/local-law/arch_stnds_9.htm)).

#### **IV. AVOIDANCE AND MONITORING**

- A. BV, through their CRM contractor, will maintain up-to-date avoidance area mapping during the Undertaking that establishes a 15-meter buffer for all historic properties that remain unmitigated to aid in avoidance of direct adverse effects prior to the completion of mitigation. BV, through their CRM contractor, will monitor all unmitigated historic properties weekly to ensure avoidance. BV, through their CRM contractor, will ensure flagging of the avoidance areas will be placed and maintained at the 15-meter buffer for unmitigated sites during any active construction.
- B. Reporting on all monitoring activities, findings, and recommendations will be submitted to the USACE annually by BV through its CRM contractor within thirty (30) days following the anniversary of the execution of this MOA.
- C. BV will fund monitoring and any remediation, if necessary.

#### **V. MITIGATION**

- A. If the USACE, in consultation with the Parties, determines that the Undertaking will adversely affect a historic property in a manner not previously considered or will adversely affect a newly identified historic property, then prior to affecting the historic property, an appropriate HPTP shall be prepared by BV, through its CRM contractor. HPTPs shall be consistent with the Standards and following the guidance provided in the ACHP's Section 106 Archaeology Guidance (2009; available online at [www.achp.gov/archguide](http://www.achp.gov/archguide)). In addition, the HPTP will be accompanied by the original National Register evaluation.
- B. The USACE shall ensure that BV, through its CRM contractor, prepares and submits HPTPs for known historic properties which would be adversely affected to the USACE within six (6) months of execution of this MOA.
- C. The USACE will ensure that BV provides funds to support a CRM firm and qualified persons in implementation of the treatment plan, including but not limited to, mitigation of archaeological sites, artifact processing, writing a summary report of findings, and writing the final report of findings as set forth in the HPTP, and the curation of all excavated and/or collected artifacts.
- D. The USACE will review and comment on any or all draft HPTPs within thirty (30) calendar days of receipt. The USACE shall provide comments on any or all draft HPTPs to BV. BV, through its CRM contractor, shall revise any or all of the draft HPTPs to address the USACE comments within ten (10) calendar days of receipt of those comments.



- E. The USACE shall submit the draft HPTPs to the SHPO and Tribes for review upon USACE approval of any or all HPTPs. The USACE will provide all comments received from the Tribes to the SHPO within ten (10) calendar days of receipt.
- F. The SHPO and Tribes, shall have thirty (30) calendar days from the date of receipt to review and provide comments to the USACE on any or all draft HPTPs. If the SHPO and Tribes do not respond within the comment period, the USACE may finalize any or all draft HPTPs. BV, through their CRM contractor, will address all timely comments provided by the SHPO and/or Tribes and supply final HPTPs to the USACE within ten (10) calendar days of close of the comment period.
- G. The USACE shall provide final copies of the HPTP to the SHPO and Tribes and authorize BV to initiate mitigation measures in the HPTP upon approval of a final HPTP by the USACE.
- H. BV, through their CRM firm shall submit a fieldwork summary in accordance with Stipulation VI within thirty (30) calendar days of completion of field work at a historic property.
- I. BV, through their CRM contractor, shall submit a draft mitigation report to the USACE within thirty-six (36) months of the completion of fieldwork for each HPTP, unless otherwise negotiated amongst the Parties. BV, through their CRM contractor, may combine and/or submit draft mitigation reports concurrently.
- J. The USACE will review and comment on the draft mitigation report within ninety (90) calendar days of receipt. The USACE shall provide comments on the draft mitigation report to BV. BV, through its CRM contractor, shall revise the draft mitigation report to address any USACE comments within sixty (60) calendar days of receipt of those comments.
- K. The USACE shall submit the report to the SHPO and the Tribes for review and comment upon USACE approval of the draft mitigation report. The SHPO and Tribes shall have ninety (90) calendar days to review and comment on the draft mitigation report from the date of receipt. The USACE will also provide all comments from the Tribes to the SHPO within ten (10) calendar days of receipt. The USACE may direct BV to finalize the mitigation report if no timely comments are received.
- L. The USACE shall immediately forward all timely comments made by the SHPO and Tribes to BV. BV, through their CRM contractor, will address any comments and provide a final mitigation report to the USACE.
- M. The USACE will submit a copy of the final mitigation report to the SHPO and the Tribes within thirty (30) calendar days of approval.

## **VI. INITIATION OF CONSTRUCTION**

Upon execution of this MOA, BV may conduct operations in areas outside of historic property avoidance boundaries so long as BV has received all other necessary approvals. BV shall avoid any intrusions into each historic property avoidance boundary until the USACE issues a Notice to Proceed (hereafter “NTP”) in writing to BV. If post-review discoveries occur during construction, the requirements of Stipulation VII will apply.

The USACE will provide BV with an NTP for each avoidance area after the USACE, in consultation with the SHPO and Tribes, has reviewed and approved the mitigation summary for each phase of treatment to ensure compliance with the HPTP. To ensure compliance, the following will be carried out:

- A. BV’s CRM contractor will provide the USACE with a summary of fieldwork after each phase of mitigation for the historic property has been performed in accordance with the approved HPTP.
- B. The USACE shall review the summary within five (5) working days of receipt and shall notify BV’s CRM contractor that USACE either accepts or rejects the summary. BV’s contractor shall address any comments and resubmit the summary to the USACE.
- C. The USACE shall provide a copy of the summary to the SHPO and the Tribes for review upon USACE approval of the summary.
- D. The SHPO and Tribes shall have five (5) working days to review and comment on the summary from the date of receipt.
- E. The USACE may issue the NTP to BV for work within the avoidance area if no timely comments are received. If timely comments are received, BV, through their CRM contractor, will address the comments and provide a revised summary to the USACE.
- F. The USACE will provide a copy of the summary to the SHPO and the Tribes and may issue the NTP to BV for work within the avoidance area within five (5) working days of approval of the revised summary.
- G. BV’s CRM contractor will update the avoidance area maps for the Undertaking and provide them to the USACE and the SHPO upon receipt of an NTP.

## **VII. POST-REVIEW DISCOVERIES**

- A. Should any human remains or cultural material not previously identified be discovered during Project implementation, BV, through its CRM contractor and Construction Manager, will ensure all ground-disturbing activities immediately cease (allowing for necessary safety precautions to be completed) within 15 meters of the discovery and the discovery location secured from additional impacts from Project construction. BV or its

designated representative shall notify the USACE of the discovery no later than 24 hours following the time of discovery. The provisions in the Monitoring and Post-Review Discovery Plan included as Attachment 2 to this MOA shall be followed to address and resolve the post-review discovery.

- B. BV shall cause its CRM contractor to submit an HPTP to the USACE within ninety (90) days of the USACE's determination and direction to BV to mitigate damaged historic properties or if it determined by the USACE that continued implementation of the Undertaking would adversely affect the historic property. Upon the USACE's approval of the final HPTP (reviewed and approved in consultation with the SHPO), BV shall have one year to carry out the fieldwork portion of the mitigation prescribed by the approved HPTP.
- C. After BV, through its CRM contractor, completes the appropriate treatment of the discovery in the area secured from Project construction, the Project may resume in that area upon BV's receipt of written authorization from the USACE.

#### **VIII. NATIVE AMERICAN CONSULTATION AND MONITORING**

BV shall allow Native American monitor(s) to be present during all project-related ground-disturbing activities as described in Attachment 2 to this MOA.

#### **IX. DURATION**

This MOA will automatically expire on the fifth anniversary of its execution if its terms are not initiated within five (5) years from the date of its execution. Prior to such time, if the terms of this MOA are initiated, but are not likely to be completed within five (5) years from the date of its execution, the USACE shall consult with the Parties to reconsider the terms of the MOA and amend it in accordance with Stipulation XI below. If the MOA is not amended, it will automatically expire on the fifth anniversary of its execution.

#### **X. DISPUTE RESOLUTION**

- A. Should any Party to this MOA object to the manner in which the terms of this MOA are implemented or to any documentation prepared in accordance with and subject to the terms of this MOA, the objecting Party shall immediately notify the other Parties, in writing, of the nature of its objection. The non-objecting Parties may respond in writing within fifteen (15) calendar days following receipt of the expression of objection. As soon as practicable after notice of an objection, the Parties shall begin cooperative discussions for the purpose of resolving the dispute.
- B. The Parties agree to work cooperatively and diligently toward a mutually acceptable resolution of the objection during a consultation period not to exceed thirty (30) calendar days from receipt of notification from the objecting Party. If the Parties resolve the objection, the terms of the resolution shall be incorporated into a written amendment to



the MOA in accordance with Stipulation XI, below, as appropriate. Thereafter, the USACE may proceed in accordance with the terms of the resolution.

- C. If, however, the Parties are unable to reach a resolution is reached during the consultation period, the USACE shall:
1. Forward all documentation relevant to the dispute, including the USACE's proposed resolution, to the ACHP. The ACHP shall provide the USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP and the Parties and provide them with a copy of this written response. The USACE will then proceed according to its final decision.
  2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the USACE may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the USACE shall prepare a written response that takes into account any timely comments regarding the dispute from the Parties and provide them and the ACHP with a copy of such written response.
  3. The USACE's responsibility to ensure all actions are carried out under this MOA that are not the subject of the objection, shall remain unchanged.
- D. During the implementation of the terms of this MOA, should an objection pertaining to such implementation be raised by a member of the public, the USACE shall immediately notify the other Parties in writing of the objection and take the objection into consideration. The USACE shall consult with the objecting individual or organization and, with the other Parties, as appropriate, in an effort to reach a mutually acceptable resolution. The period of consultation shall not exceed fifteen (15) calendar days. Within ten (10) calendar days following closure of this consultation period, the USACE shall reach a decision regarding resolution of the objection and shall notify the objecting individual or organization as well as the Parties of its decision in writing. In reaching its decision, the USACE shall take into account any comments from the Parties and any additional comments from the objecting individual or organization. If a Party objects to the USACE's decision, the objection shall be resolved in accordance with Stipulation X.A of this MOA.

## **XI. AMENDMENTS**

Any Party to this MOA may propose that this MOA be amended, whereupon all Parties will consult for no more than thirty (30) days to consider such amendment. The Signatories may extend this consultation period, if necessary. This MOA may be amended only upon the written

agreement of the Signatories and Invited Signatory. The USACE shall file a copy of the amendment with the ACHP.

## **XII. TERMINATION**

If any Party determines that its terms will not or cannot be carried out, that Party shall immediately consult with the other Parties to develop an amendment per Stipulation XI above. If within thirty (30) days (or another time period agreed to by all Signatories) an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, the USACE must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The USACE shall notify the Parties as to the course of action it will pursue.

**EXECUTION** of this MOA by the USACE and the SHPO and implementation of its terms evidence that the USACE has taken into account the effects of this Undertaking on historic properties and afforded the ACHP an opportunity to comment. This MOA may be signed in counterparts and the executed MOA, and each signature, will be effective and binding as if all Parties had signed the same document.

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BETWEEN  
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REGARDING  
THE TALUS VALLEY PROJECT,  
WASHOE COUNTY, NEVADA**

**SIGNATORY:**

**UNITED STATES ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT**

By: Nicole Fresand for \_\_\_\_\_ Date: January 13, 2023  
Name: Jason A. Gipson  
Title: Chief, Nevada-Utah Section, Regulatory Division



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**SIGNATORY:**

**NEVADA STATE HISTORIC PRESERVATION OFFICER**

By: 

Date: 01/13/2023

Name: Rebecca L. Palmer

Title: State Historic Preservation Officer

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**INVITED SIGNATORY:**

**NPLC BV INVESTMENT COMPANY, LLC**  
a Delaware limited liability company

By:  Date: 1/12/23

Name: John P. Patterson  
Title: Authorized Agent & Signatory

By:  Date: 1/12/23

Name: Noah Shih  
Title: Authorized Agent & Signatory

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WASHOE COUNTY, NEVADA**

**CONCURRING PARTY:**

**WASHOE TRIBE OF NEVADA AND CALIFORNIA**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Serrell Smokey  
Title: Chairman



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WASHOE COUNTY, NEVADA**

**CONCURRING PARTY:**

**RENO-SPARKS INDIAN COLONY**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Arlan D. Melendez  
Title: Chairman

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REGARDING  
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WASHOE COUNTY, NEVADA**

**CONCURRING PARTY:**

**PYRAMID LAKE PAIUTE TRIBE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: Janet Davis  
Title: Chairwoman

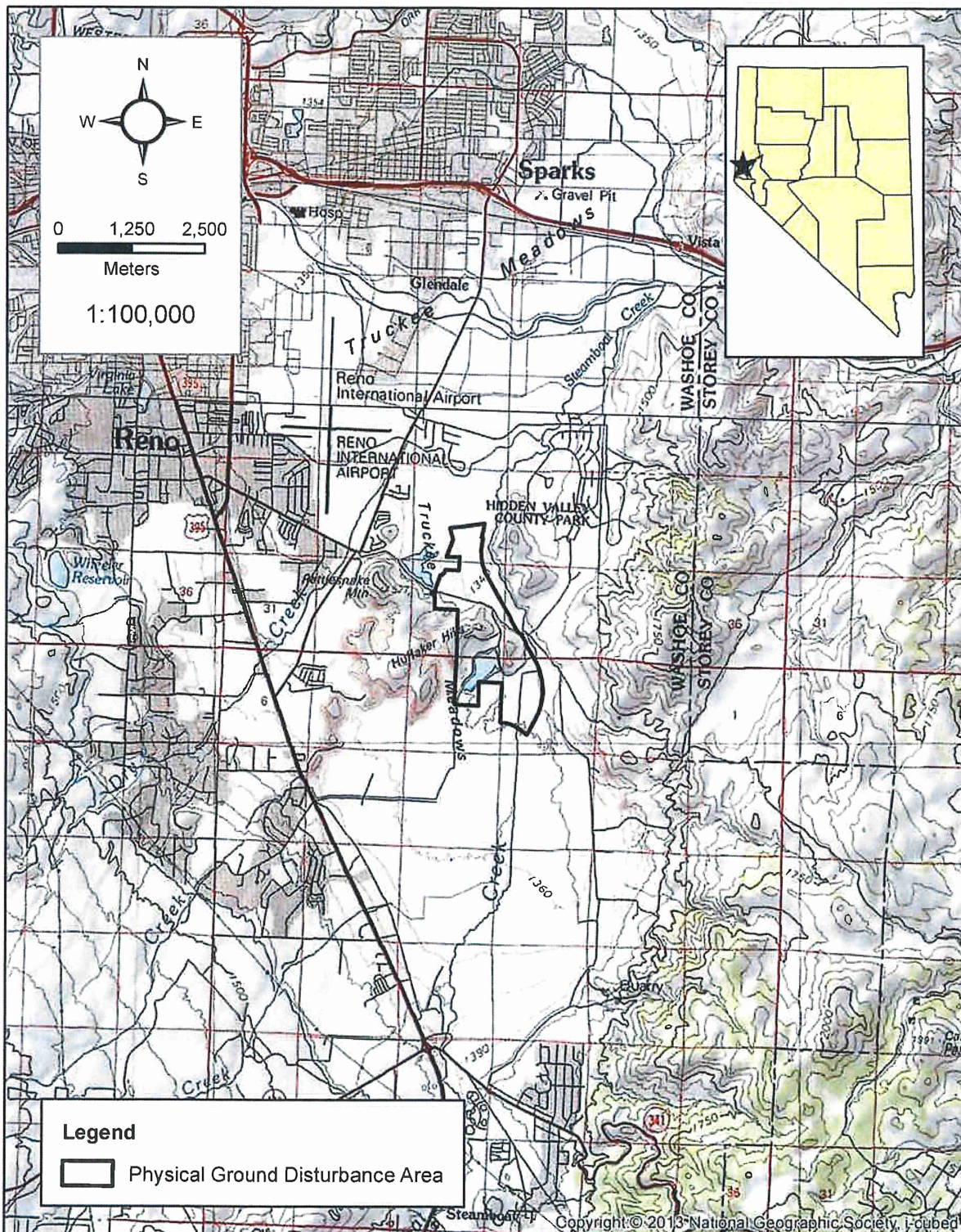
**Attachment List**

Attachment 1 – Project and APE Maps

Attachment 2 – Cultural Resources Monitoring and Post-Review Discovery Plan

Attachment 3 – Table of Historic Properties and Effects





Attachment 1: Figure 1.1 - Physical Ground Disturbance Area  
 Base Map: USGS 1:100,000 Carson City, Nev., 1996. T.18-19N., R.20E., Sections 3-4, 28, and 33-34, Datum (NAD 83, meters)  
 Project: MOA Regarding the Talus Valley Project  
 Revised 12/1/2022





## **Attachment 2**

### **Cultural Resources Monitoring and Post-Review Discovery Plan (Plan)**

Archaeological monitoring of ground-disturbing activities will be conducted in accordance with the following Plan. Participants in this Plan include BV Investment Company LLC (BV), United States Army Corps of Engineers, Sacramento District (USACE), the project's construction management firms, the Cultural Resources Specialist (CRS), the Washoe Tribe of California and Nevada (Washoe), Reno-Sparks Indian Colony (RSIC), and the Pyramid Lake Paiute Tribe (PLPT) (collectively, Tribes), the lead construction company, and the Nevada State Historic Preservation Officer (SHPO). To allow for clear communication among all participants, each organization will designate a Point of Contact (POC) to receive and transmit all cultural resources-related communications.

#### **A. Worker Environmental Awareness Training**

BV shall ensure that all persons working in the field are provided with archaeological and cultural resource awareness training and that subsequent hires will be required to be trained prior to operating in the field. Training can be in association with BV's construction management firm's safety and/or related job training and project orientation. BV shall cooperate with the USACE to ensure compliance with the Nevada Revised Statutes (NRS 381) for the project.

#### **B. Designation of a Cultural Resources Specialist (CRS)**

At least one month prior to the start of any project-related ground disturbance, BV will identify a lead CRS. The CRS will possess training and background conforming to the Secretary of Interior's Professional Qualifications Standards, as published 36 CFR Part 61. In addition, the CRS shall have the following qualifications:

1. The CRS's qualifications shall be appropriate to the needs of the resources and shall include a background in anthropology, archaeology, history, architectural history, or a related field; and
2. At least three years of archaeological or historic, as appropriate, resources mitigation and field experience in Nevada; and
3. At least one year of experience in a decision-making capacity on cultural resources projects in Nevada and the appropriate training and experience to knowledgeably make recommendations regarding the significance of cultural resources.

#### **C. Construction Monitoring and Reporting**

For the purposes of this plan, archaeological construction monitoring is defined as on-the-ground, close-up observation of construction related ground disturbance by a Cultural Resources Monitor (CM) who in a discovery situation shall halt all activities in the immediate vicinity of the discovery with a buffer of 15 meters to ensure protection of the discovery. Native American monitors (Section G) are also empowered in a discovery situation to halt all activities in the

immediate vicinity of the discovery with a buffer of 15 meters to ensure protection of the discovery.

CMs report directly to the CRS on a daily basis. The CM watches for any kind of archaeological remains that are exposed during ground-disturbing construction activities. The CM will be responsible for:

1. The definition and identification of any discovered cultural or archaeological find.
2. Ensuring all construction is halted in the vicinity of a discovery in order to evaluate the discovery.

The CRS will be responsible for:

1. The immediate supervision and assignment of CMs.
2. The determination as to whether any newly discovered cultural materials can be treated as eligible or ineligible for listing in the National Register of Historic Properties (NRHP) for the purposes of the Undertaking (see Section E below).
3. Ensuring that either they or the CMs will be equipped with basic archaeological field equipment necessary to record and map discovered sites and photograph the finds. A full suite of field gear needed to recover cultural materials will be brought on site as required. If necessary, the CRS will arrange with the construction superintendent's field office to cache frequently needed gear or supplies.
4. Determinations of the number of CMs needed taking into account such factors as number of active ground-disturbing work areas, archaeological sensitivity, and proximity to known resources.
5. The preparation of a brief weekly monitoring report to be provided to BV, the USACE, and the SHPO in an electronic format.

A representative for the lead construction company will be designated prior to construction and will be responsible for providing a weekly construction schedule detailing the next week's planned activities to the project engineering firm for the purpose of scheduling archaeological and Native American monitors (Section G). The construction schedule will describe work locations, depths of anticipated excavations, and estimated duration of construction activities. Recognizing that construction can be dynamic, notification of any need for a monitor will be provided to the project-engineering firm no less than 48 hours prior to the commencement of construction.



#### D. Discoveries of Materials Less Than 45 Years of Age

All of the materials listed below are less than 45 years of age and, unless of exceptional significance as determined by the CM/CRS, are considered not eligible for the NRHP and do not merit recordation or mitigation if discovered during monitoring or construction. If there is any doubt regarding the age of a historic-period find, the BV and CRS will discuss this with the CM when giving notice of the find. The following materials will not be recorded:

1. Plastic products limited to Styrofoam® and other foamed polystyrene products, Velcro®, Teflon®-coated cookware, polyvinylchloride (PVC) pipe, high-density polyethylene, polypropylene, polyimide, thermoplastic polyester, linear low density polyethylene, liquid crystal polymers, and products marked with resin codes,
2. Cans made from aluminum or bi-metal, or those with pull-tab or push-tab (metal or plastic) openings,
3. Aluminum foil containers,
4. Synthetic tires and car parts unless determined to be over 45 years in age or found in association with resources over 45 years in age,
5. Modern electronics (CD players, VCRs, electronic appliances, personal electronics, computers, printers),
6. Compact disks, floppy computer disks, magnetic tape media,
7. Unidentifiable metal fragments not found in association with other historic materials,
8. Rubberized metal, and
9. Clothing or shoes made of plastic or synthetic materials unless determined to be over 45 years in age or found in association with resources over 45 years in age.

CMs shall have sufficient familiarity with historic-era resources prior to monitoring at the project location to differentiate materials that are more than 45 years of age from more recent materials.

#### E. Discoveries of Materials 45 Years of Age or Older

The CRS shall ensure that all cultural resources more than 45 years in age will be recorded on appropriate forms, mapped, and photographed.

Previously unidentified cultural resources more than 45 years in age in categories Section E.2 below will be treated as categorically not eligible for the NRHP for the purposes of the Undertaking and will be documented in the manner described in Section E.1 below. Cultural resources not included in categories Section E.2 will be evaluated for their NRHP eligibility consistent with Attachment 2.F. Any deposits containing human remains will not be treated using the process outlined in Section E.1.

1. Mitigation for discoveries treated as eligible for the purposes of the Undertaking:
  - a. The CRS/CM shall ensure construction remains halted in the immediate vicinity of the discovery with a buffer of 15 meters to ensure protection of the discovery.

- b. The CRS shall record the discovery on the Nevada Intermountain Antiquities Computer System (IMACS) form. The form shall identify the category (from Sections E.2 and E.3) for each discovery.
  - c. The CRS shall ensure that each form is accompanied by a location map and photographs of the discovery.
  - d. The CRS shall not collect artifacts found in discoveries described in Section E.2.
  - e. The CRS shall notify BV's Construction Manager that construction may resume.
  - f. The CRS shall submit the required IMACS form for each individual discovery as an attachment to the next Cultural Resources Weekly Compliance Report.
2. The following classes of archaeological resources shall be treated as not eligible for the NRHP for the purposes of the Undertaking:
- a. Small, sparse (less than three pieces per square meter) lithic scatters lacking diagnostic tools.
  - b. Sparse occurrences of fragments of fire-affected rock weighing less than 15 grams (less than three pieces per square meter, with no other cultural constituents within 1 square meter).
  - c. Small clusters (less than 0.5 meter x 0.5 meter in horizontal extent) of unidentifiable, unworked, and not fire-affected shell or bone (whole or fragmented) not in association with artifacts or other cultural materials.
  - d. Isolated (not found within 30 meters of other artifacts) non-diagnostic Native American artifacts.
  - e. Roadside disposal of debris or refuse.
  - f. Unmodified bovine, or other domesticated animal bone.
  - g. Small, isolated artifact concentrations (fewer than five artifacts or the fragments of one object) with no subsurface deposit.
  - h. Deposits of concrete, brick or other building materials not *in situ*.
  - i. Metal, concrete or ceramic pipes, conduits, or culverts not *in situ*.
  - j. Isolated (not found within 30 meters of other artifacts) historic artifacts.

#### F. Unanticipated Discoveries Requiring NRHP Evaluation

In the event that construction activities reveal previously unidentified cultural resources that are not described in the categories found in Sections E.2, the following procedures shall be implemented:

1. The CM/CRS and BV's Construction Manager shall ensure that all ground-disturbing construction activity remains halted within a 15-meter radius around the entirety of the discovery.
2. BV and/or CRS shall ensure that the discovery is adequately fenced or flagged and that remains protected the USACE provides a notice to proceed (NTP) in writing to BV.

3. The CRS shall notify the USACE's POC no later than 24 hours following the time of discovery.
4. The CRS will initiate an evaluation of the discovery and within 24 hours the CRS shall provide a NRHP eligibility recommendation for the discovery to the USACE that will include a site record and a summary report of any testing operations.
  - a. Evaluations of cultural resources will be made, if possible, from the data collected during monitoring. If additional information is needed to evaluate the NRHP eligibility of a discovery, limited testing by hand excavation units (0.5 x 0.5 meter, 1 x 1 meter) will be conducted until sufficient information is collected to allow for a NRHP evaluation.
  - b. Prior to initiating any testing, the CRS will provide the USACE with a proposed testing plan. The USACE shall consult with the SHPO and Tribes regarding any proposed testing prior to authorizing the testing.
  - c. All testing operations will cease upon collection of sufficient data to allow for a NRHP evaluation.
5. The USACE, within two (2) working days of receipt of the notification of the discovery, shall notify the SHPO, and the Tribes as appropriate, of the discovery and provide a NRHP eligibility determination for the discovery.
6. The SHPO, and the Tribes as appropriate, shall have seven (7) working days from receipt to comment on the USACE determine of NRHP eligibility for the discovery. If no timely response is received, the USACE will finalize the determination.
7. If the USACE, in consultation with the SHPO and the Tribes, determines that a discovery is not eligible for the NRHP the USACE will provide BV with a written determination that construction activities may proceed within the discovery and avoidance area, as defined in Section F.1, within two (2) working days.
8. If the USACE, in consultation with the SHPO and the Tribes, determines that a discovery is a historic property and cannot be permanently avoided by Undertaking redesign, the USACE shall direct BV, through its CRS, to develop an HPTP in that is consistent with the *Secretary of Interior's Standards and Guidelines for Archeology and Historic Preservation* (48 FR 44716-44742, September 23, 1983) (Standards) and that takes into consideration the ACHP's Section 106 Archaeology Guidance (2009; available online at [www.achp.gov/archguide](http://www.achp.gov/archguide)), and any other applicable guidelines or standards.
9. The USACE will review and comment on any or all draft HPTPs within thirty (30) calendar days of receipt.
10. The USACE shall provide comments on any or all draft HPTPs to BV and BV, through its CRS, shall revise any or all of the draft HPTPs to address the USACE comments within ten (10) calendar days of BV's receipt of those comments.

11. Upon USACE approval of any or all HPTPs, the USACE shall submit the draft HPTPs to the SHPO for review.
12. The USACE shall concurrently provide a copy of the draft HPTPs to the Tribes as appropriate. The USACE will provide the SHPO with any comments provided by the Tribes within ten (10) calendar days of receipt.
13. The SHPO, and the Tribes as appropriate, shall provide comments to the USACE within thirty (30) calendar days of receipt of any or all draft HPTPs. If no comments are received within the comment period, the USACE may finalize any or all of the draft HPTPs.
14. BV's CRS will address any comments provided by the SHPO, and the Tribes as appropriate, and supply final HPTPs to the USACE within ten (10) calendar days of BV's receipt of those comments.
15. Upon approval of a final HPTP by the USACE, the USACE shall provide final copies of the HPTPs to the SHPO, and the Tribes as appropriate, and authorize BV to initiate any or all of reviewed and finalized HPTPs. The reporting timeline outlined in MOA Stipulation IV P-V will apply to any activities undertaking to resolve adverse effects.

#### G. Native American Participation

BV will make provisions for the participation of Tribal monitor(s) during ground-disturbing activities. The Tribal monitor(s) will be from one of the three groups affected by the project including the Washoe Tribe of California and Nevada, Pyramid Lake Paiute, and the Reno-Sparks Indian Colony. Each Tribe participating in the project will provide the BV with a POC to receive all monitoring related communication. If Native American artifacts are encountered during ground disturbance, the Tribal monitor will act as a liaison between archaeologists, developers, contractors, and public agencies, to ensure that cultural features are treated appropriately. Construction will not occur until the affected Tribe is given notice by BV that ground disturbance is planned in undisturbed soil and given the opportunity to monitor that ground disturbance.

A Tribal monitor will also be invited to be on site during all data recovery and mitigation efforts. Notification of the need for a tribal monitor will be provided no less than 48 hours prior to the commencement of work. Tribal monitors will be responsible for providing monitoring updates to Tribes.

#### H. Human Remains

Human remains may be discovered during project construction or during archaeological excavations. Human remains and associated grave goods will be handled according to

provisions of the appropriate state statutes with guidance provided by the SHPO and the USACE.

1. In the event that human remains are discovered, the CM/CRS and/or BV's Construction Manager shall halt all construction activity within 15 meters of the discovery. No further activity will take place within this buffered area until BV receives written notice to proceed from the USACE.
2. The CRS will immediately notify BV, the SHPO, the USACE, and the Washoe County Sheriff by telephone followed by written notification of the discovery. All discoveries of human remains shall remain on a 'need to know' basis; information regarding such discoveries should not be shared unless deemed necessary. The BV will provide 24-hour on-site security, if deemed appropriate. Protection of the buffered area will remain in place until approved appropriate disposition of the human remains and any associated grave goods has occurred in accordance with applicable state statutes.
  - a. If law enforcement determines the remains are part of a crime scene, they will direct further activities within and around the crime scene.
3. If the discovery is not part of a crime scene, the CRS, in coordination with BV, the SHPO, the Washoe County Sheriff, and the USACE, will assess age, possible ethnic affiliation, and the particular circumstances of interment. Should the remains be identified as Native American, BV shall comply with Nevada Revised Statute 383.170. In addition, the following measures will followed:
  - a. Human remains will be handled as little as possible by law enforcement.
  - b. No person is permitted to contact the media regarding any discovery. Native American human remains will not be displayed to the public.
  - c. In recognition of the ancestry, Tribe and/or Tribal Monitors will be afforded the opportunity to conduct such rites and ceremonies as may be deemed appropriate for the discovery.
  - d. The remains will be secured by cordoning off the immediate area around the burial with fencing or whatever means are available.
  - e. Any human remains and associated cultural items or other cultural material in the immediate vicinity of the remains will not be disturbed or removed from the site of the discovery without appropriate notification, coordination, and planning with the Tribes, the SHPO, and the USACE.



**Attachment 3  
Adversely Affected Resources**

Resource Number(s)*	Resource Type	Age	Description	NRHP	Criterion	APE
B8564 (WA1456)	Building	Historic	Building 1, Bella Vista Ranch	Eligible, Contributes to D232	A, C	Direct
B15310 (WA1456)	Building	Historic	Stone masonry building	Eligible, Contributes to D232	A, C	Direct
B15311 (WA1456)	Building	Historic	Stone Garage	Not Eligible, Contributes to D232	A, C	Direct
B15312 (WA1456)	Building	Historic	Quonset-style storage	Eligible, Contributes to D232	A, C	Direct
B15313 (WA1456)	Building	Historic	Secondary residence	Eligible, Contributes to D232	C	Direct
B15314 (WA1456)	Building	Historic	Dog kennel	Not Eligible, Contributes to D232	A, C	Direct
B15315 (WA1456)	Building	Historic	Barn	Not Eligible, Contributes to D232	A, C	Direct
B15316 (WA1456)	Building	Historic	Stall	Not Eligible, Contributes to D232	A, C	Direct
B15317 (WA1456)	Building	Historic	Storage	Not Eligible, Contributes to D232	A, C	Direct
B15319 (WA1456)	Building	Historic	Garage	Not Eligible, Contributes to D232	A, C	Direct
D232	Architectural District	Historic	Bella Vista Ranch District	Eligible	A, C	Direct/Indirect
S1769 (WA6653)	Structure	Historic	Alexander Lake	Not Eligible, Contributes to D232	A	Direct/Indirect
S1770 (WA6653)	Structure	Historic	Gates Ditch #2	Eligible, Contributes to D232	A	Direct
WA1456	Site	Prehistoric/ Historic	Large, variable density lithic scatter with ground stone and historic ranch complex	Prehistoric: Eligible Historic: Eligible	D A, C	Direct
WA1480	Site	Prehistoric/ Historic	Large lithic and ground stone scatter, with diffuse refuse scatter	Prehistoric: Eligible Historic: Not Eligible	D	Direct
WA1482	Site	Prehistoric/ Historic	Large lithic and ground stone scatter and historic refuse scatter	Prehistoric: Eligible Historic: Not Eligible	D	Direct
WA1486	Site	Prehistoric	Lithic and ground stone scatter	Eligible	D	Direct
WA2675	Site	Prehistoric	Prehistoric walls	Eligible	C	Direct
WA2676	Site	Historic	Unknown wagon road, formally assessed as a segment of the Truckee River Route of the California Emigrant Trail	Unevaluated		Indirect
WA4330	Site	Prehistoric	Lithic and ground stone scatter	Eligible	D	Direct
WA6653 (S1769, S1770)	Site	Historic	Irrigation/Drainage system including Gates Ranch and Caesar Ramelli Ditches, and Alexander Lake	Eligible	A	Direct/Indirect
WA7859	Site	Prehistoric/ Historic	lithic scatter with rock wall and historic concrete and rock water gate with artifacts	Unevaluated	-	Indirect
WA7861	Site	Prehistoric	lithic scatter with ground stone tools, a rock alignment and a possible hearth feature	Eligible	-	Indirect
WA7866	Site	Prehistoric	Small lithic scatter with four features. The features are all hunting blinds, with associated artifacts in two of them	Unevaluated	-	Indirect
WA8318	Site	Prehistoric/ Historic	Prehistoric lithic and ground stone scatter and historic refuse scatter	Prehistoric: Eligible Historic: Not Eligible	D	Direct
WA8319	Site	Prehistoric/ Historic	Prehistoric lithic scatter and historic refuse scatter	Prehistoric: Eligible Historic: Not Eligible	D	Direct
WA9528	Site	Prehistoric/ Historic	Prehistoric base camp and historic residential site	Eligible	Prehistoric: A, D Historic: A, D	Indirect
WA10350	Site	Prehistoric	Lithic Scatter	Eligible	D	Direct

\* Sites are  
prefixed by 26