

APPENDIX O:
CULTURAL RESOURCES TECHNICAL APPENDIX

APPENDIX O-1:
PROGRAMMATIC AGREEMENT

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AMONG
THE U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE CALIFORNIA STATE HISTORIC PRESERVATION OFFICER,
REGARDING IMPLEMENTATION OF THE PLAYA VISTA PROJECT

WHEREAS, the U.S. Army Corps of Engineers, Los Angeles District (Corps) is considering a permit application for the Playa Vista Development Project, near Marina Del Rey, Los Angeles County, California as authorized by Section 404 of the Clean Water Act; and

WHEREAS, the Corps has determined that the Playa Vista Project may have an effect on properties included in, or eligible for, the National Register of Historic Places and has consulted with the Advisory Council on Historic Preservation (Council) and the California State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, Maguire Thomas Partners-Playa Vista (MTP-PV), and the Local Native American Gabrielino Community participated in the consultation and have been invited to concur in this Programmatic Agreement;

Now, THEREFORE, the Corps, the Council, and the SHPO agree that the project shall be administered in accordance with the following stipulations in order to take into account the effects of the project on historic properties.

Stipulations

The Corps will ensure that the following measures are carried out:

1. The Playa Vista Project is divided into four quads, designated Areas A, B, C and D, which together make up the undertaking's Area of Potential Effect (APE) [see Figures 1 and 83 of Playa Vista Archaeological and Historical Project Research Design ("Research Design") by J.H. Altschul, R.S. Ciolek-Torrello, J.A. Homburg, and M.T. Swanson (Statistical Research 1991, Tucson, AZ)]. Areas A, B, C and D of the APE have been surveyed and inventoried and the results are available in Chapter 6 of the "Research Design." Official trinomials shall be obtained for all archeological sites within the APE prior to requesting consultation under Stipulation 2

- a. The following historic properties are situated within each respective Area:
 1. Area A: CA-LAN-1698. It has been determined by the Corps and the California SHPO that this site is not an historic property, but rather consists of dredged material.
 2. Area B: CA-LAN-1970H/SR-2, SR-3, SR-8, SR-9, SR-10.
 3. Area C: CA-LAN-54, SR-7, SR-11.
 4. Area D: CA-LAN-60/SR-14, CA-LAN-62/SR-15, CA-LAN-193, CA-LAN-211/SR-16, SR-1, CA-LAN-1934H/SR-4, SR-5, CA-LAN-1932H/SR-6, SR-12, SR-13, and SR-17 (Howard Hughes Industrial Complex).
 - b. The Corps and the California SHPO have agreed that CA-LAN-62/SR-15 and CA-LAN-211/SR-16 are eligible for listing on the NRHP. The Corps and the California SHPO have also agreed that CA-LAN-1933H/SR-5 is ineligible for listing on the NRHP. The remaining sites listed above have not yet been, but will be, formally evaluated under 36 CFR 800.4(c). Prehistoric sites will be evaluated in terms of whether they are contributing members of the Ballona Lagoon Archaeological District.
 - c. CA-LAN-60/SR-14 and SR-1 are on lands that MTP-PV is entitled to acquire at a later date, but which are not currently owned by MTP-PV, and to which MTP-PV's present access rights are limited. MTP-PV will attempt to obtain permission from the current owners of the lands to undertake Section 106 compliance for these properties prior to when MTP-PV obtains ownership. If said permission cannot be obtained, MTP-PV will, subject to continuing legal restrictions and local ordinances and regulations, undertake Section 106 compliance when it acquires ownership.
2. The Corps shall determine the eligibility of unevaluated historic properties in consultation with the California SHPO and in accordance with 36 CFR 800.4(c). The project "Research Design," which has been developed in consultation with the Corps and the California SHPO, will guide the evaluation of said historic properties. The effects on eligible properties shall be then evaluated by the Corps in consultation with the SHPO. Treatment Plans shall be developed based on these evaluations.

3. The Corps shall ensure that Archeological Treatment Plans (ATPs) are developed in consultation with the SHPO for all historic properties within the undertaking's APE determined eligible to the National Register in accordance with Stipulations A and B. The Corps shall submit each ATP to all of the other parties to this agreement for review and comment. Each party shall have 30 days from receipt of the ATP to comment. Unless objections are raised within the allotted time, the Corps shall ensure that the ATP is implemented as designed. If objections are raised, the Corps shall consult with the objecting party(ies) to remove their concerns according to the provisions set forth in Stipulation 8. Following agreement on the terms of each ATP, the Corps shall ensure it is implemented prior to, or in conjunction with project construction as specified in that plan.

- a. The ATP shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37), the California Office of Historic Preservation's Archaeological Resource Management Reports (ARMR): Recommended Contents and Format (1989) and Guidelines for Archaeological Research Designs (1991), and take into account the Council's publication, Treatment of Archeological Properties-A Handbook. It shall also be consistent with the Department of the Interior's Guidelines for Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act (53 FR 4727-46).

The ATP will include a specific plan for dealing with properties discovered during the implementation of the proposed undertaking [cf. 36 CFR 800.11(a)].

- b. Initial (Phase I) construction will begin in parts of Area D (see Figure 1 in Attachment 1). The Parties to this agreement accept the terms of the Phase 1 ATP, entitled Data Recovery Plan for CA-LAn-62 and CA-LAn-211, Playa Vista Archaeological Project (Attachment 1) as a means to take into account the effects of construction of that phase of the project on historic properties.

Additional ATP's will be developed and implemented for Areas A, B, and C, and the remainder of Area D prior to development of those portions of the APE.

4. The Corps shall ensure that a Historic Resource Treatment Plan (H RTP) is developed in consultation with the SHPO for the Hughes Industrial Historic District. The Corps shall submit the H RTP to all of the other parties to this

agreement for review and comment. Each party shall have 30 days from receipt of the H RTP to comment. Unless objections are raised within the allotted time, the Corps shall ensure that the H RTP is implemented as designed. If objections are raised, the Corps shall consult with the objecting party(ies) to remove their concerns according to the provisions set forth in Stipulation 8. Following agreement on the terms of the H RTP, the Corps shall ensure it is implemented prior to, or in conjunction with project construction as specified in that plan.

5. If cultural deposits are discovered during the project's land-disturbing activities, MTP-PV will treat them in accordance with the provisions of the ATP for that phase of the project. If cultural deposits are discovered for which there is no treatment plan, MTP-PV will cause a temporary halt to these activities and immediately notify the Corps, the SHPO and the Council of the discoveries. The Corps shall ensure that a plan is developed for treating the unexpected discovery. The SHPO and the Council will be given 48 working hours (excluding weekends and holidays) to comment on the plan. The plan may be developed, communicated and approved by telephone and FAX. The Corps shall ensure that the plan is then implemented taking into account the ACHP's and SHPO's comments.
6. The Corps shall ensure that all materials and records resulting from implementation of this agreement are curated in accordance with 36 CFR Part 79.
7. All plans prepared under this agreement shall include a schedule for the submission and review by the Corps, and the SHPO of technical reports, progress reports, and the methods by which the consulting and interested parties, including interested Native Americans, will be kept informed of the work and afforded the opportunity to participate.

Administrative Provisions

8. Should any party to this agreement object within 30 days to any actions pursuant to this agreement, the Corps shall consult with the objecting party to resolve the objection. If the Corps determines that the objection cannot be resolved, the Corps 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 the Corps with recommendations, which the Corps will take into account in reaching a final decision regarding the dispute; or
 - b. notify the Corps that it will comment pursuant to 36

CFR 800.6(b), and proceed to comment. Any Council comment provided in response to such a request will be taken into account by the Corps in accordance with 36 CFR 800.6(c)(2) with reference to the subject of the dispute.

- c. Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; the Corps's responsibility to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.
9. The parties to this Agreement shall consult annually, beginning one year from the date this Agreement is executed, to review implementation of the terms of the Agreement to determine whether revisions are needed. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR Part 800 to make such revisions.
- a. To provide the basis for the annual review of the Agreement's terms, the Corps shall submit a report annually, beginning one year from the date of this agreement is executed, on implementation of the agreement. The Corps will provide the report to the SHPO, the Council, and other interested parties for review and comment and consultation as needed. The annual report shall include, at a minimum, discussions of:
 - 1. Problems with and recommended revisions to the agreement; revisions to the Agreement shall be accomplished in accordance with Stipulation 8;
 - 2. Results of on-going inventory, evaluation, and accomplishments;
 - 3. Protection accomplishments; and
 - 4. Dissemination of information.
10. The Corps shall ensure that all historic preservation work carried out pursuant to this PA is carried out by or under the direct supervision of a person or persons, meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-44739).
11. The Corps, the Council or the SHPO may request that the PA be amended, whereupon they will consult in accordance with 36 CFR 800.5(e)(5).

12. The Corps, the Council or the SHPO may terminate the agreement when it is not found to be effectuating the purpose of the Act and regulations, 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 actions that would avoid termination. In the event of termination, the Corps will comply with 36 CFR Sections 800.4 through 800.6 with regard to individual undertakings covered by this agreement.
13. This Programmatic Agreement expires ten (10) years from the date it is ratified. Immediately prior to its expiration, the parties to this Agreement shall reconult to determine whether the terms of the agreement have been met, whether revisions are needed, and whether the Agreement should be extended for the Playa Vista Development Project.
14. In the Event the Corps does not carry out the terms of this Agreement, the Corps will comply with 36 CFR Sections 800.4 through 800.6 with regard to individual undertakings covered by this Agreement.

Execution and implementation of this Programmatic Agreement evidences that the Corps has satisfied its Section 106 responsibilities for all individual undertakings of the program.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: Robert W. Bush Date: 10/22/91

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT

By: Charles S. Thomas Date: 30 Sep 91
Colonel Charles S. Thomas, District Engineer

CALIFORNIA STATE HISTORIC PRESERVATION OFFICER

By: Kathryn Guellen Date: 9-6-91
Name:
Title:

Concur:

MAGUIRE THOMAS PARTNERS-PLAYA VISTA, a California Limited
Partnership (landowner/applicant)

By: _____ Date: _____
Name:
Title:

INTERESTED GABRIELINO

By: Vera Rocha Date: 9/4/91
Name: Vera Rocha
Title: Chief YAPMILA

By: Manuel Rocha Date: 9/4/91
Name:
Title: SPIRITUAL LEADER

Attachment 1: Phase I Data Recovery Plan.

Concur:

MAGUIRE THOMAS PARTNERS-PLAYA VISTA, a California Limited Partnership (landowner/applicant)

By: _____ Date: _____
Name:
Title:

INTERESTED GABRIELINO

By: Cindi M. Alvitre Date: Sept. 10, 1991
Name: CINDI M. ALVITRE
Title: CHAIRPERSON, Gabrieleno (Tongva) Tribal Council

BY: _____ Date: _____
Name:
Title:

Attachment 1: Phase I Data Recovery Plan.

Concur:

MAGUIRE THOMAS PARTNERS-PLAYA VISTA,
a California Limited Partnership

By: MAGUIRE THOMAS PARTNERS/JMB PLAYA VISTA ASSOCIATES, L.P.
a California Limited Partnership

By: MAGUIRE THOMAS PARTNERS-PLAYA VISTA ASSOCIATES

By: MAGUIRE/THOMAS PARTNERS, INC.
a California Corporation

James

By:

Its: Vice President

Date:

9/16/91