

MEMORANDUM OF UNDERSTANDING
Between
Arizona State Parks Board and the Town of Prescott Valley
for the Monitoring of Cultural and Paleontological Sites
through the Arizona Site Steward Program

I. INTRODUCTION

This Memorandum of Understanding (MOU) establishes a framework to promote cooperation and understanding between the Town of Prescott Valley and the Arizona State Parks Board (ASPB) concerning the Arizona Site Stewardship Program (ASSP), which will serve the mutual interests of the Parties and public.

II. DEFINITIONS

Arizona Site Steward or Site Steward (SS)

A volunteer who is trained, certified and appointed by SHPO to enter into a volunteer agreement with ASPB, and volunteer agreements with Arizona public land managers, to monitor archaeological and paleontological sites, submit confidential reporting, and conduct community outreach.

Arizona State Parks Board (ASPB)

Charged by the legislature to administer the ASPB & SHPO programs.

Region

Identifies a boundary usually within a 50-mile radius from the community where the SS have been trained, certified, and a Regional Coordinator has been identified.

Regional Coordinator (RC)

The RC works with local land managers to determine site monitoring priorities and frequency, establish a site inventory and a program of two other preservation activities, etc.

Site Steward Coordinator (SSC)

Designated by the Land Manager or Local Land Manager, as appropriate, to coordinate Site Steward activities on the lands under their jurisdiction.

State Historic Preservation Office (SHPO)

The SHPO is under the direction of the State Historic Preservation Officer who is an employee of ASPB and designated by the Governor. SHPO provides guidance to the ASSP.

State Program Coordinator (SPC)

Hired by ASPB to coordinate the statewide operations of the ASSP.

III. PURPOSE

The archaeological resources of the State of Arizona are deemed a valuable and non-renewable resource of the people of Arizona and the people of the United States of America. Many archaeological sites throughout Arizona are currently being subjected to vandalism and other forms of permanent destruction. This illegal activity continues, in part, due to a lack of understanding by the public of the true value of the resources and a lack of regular surveillance of these locations. State and federal laws encourage cooperation among state and federal agencies, local governmental entities, and private citizens. The undersigned Parties have determined that a program of regular, volunteer visitation of locations of archaeological resources throughout the Town of Prescott Valley diminishes the rate of their destruction and leads to an improved attitude among local citizens toward archaeological resources in their region.

- The Parties recognize and encourage a continued commitment to the enhancement and protection of the cultural and natural resources of the State of Arizona as well as the goals of public recreation.
- This MOU establishes an enduring basis for cooperation and assistance between the Parties to achieve common goals and objectives that are sensitive to our cultural and natural resources.

IV. PARTIES TO THIS MOU

A. This MOU is made and entered into between the following Parties:

1. ASPB; and
2. Town of Prescott Valley

These entities may be identified singularly as “Party” or together as the “Parties”.

- B. The Parties hereby agree to cooperate in maintaining a volunteer program called the AZ Site Steward Program (ASSP) that will be under the direction of ASPB as the agency in charge of coordination and training. Assumption of this leadership role shall not impose any additional liabilities on ASPB arising from these duties.
- C. To the extent that funding is available, ASPB intends to hire a full-time State Program Coordinator, to be assisted by appointed volunteer Regional Coordinators.
- D. SHPO will issue a training certificate to Site Stewards who have successfully completed the required training.
- E. Local volunteers will act as Site Stewards to assist the Regional Coordinators by visiting specific archaeological sites identified by the Town of Prescott Valley. The Site Stewards will report their observations to designated authorities, but will not act in any law enforcement capacity.
- F. ASPB uses a secured database to store all sites monitored by the ASSP and related documents. Land Managers will have access to all data specific to their jurisdiction at all times. The ASSP database is used to manage several program activities including:
- 1) Steward applications: All potential stewards apply through an application process.
 - 2) Program members report all volunteer hours and vandalism reports in the database.
 - 3) Store Site Kit information. Each land manager will have the option to upload sitemaps, photos and other documents that a current paper-based site kit contains.

V. AUTHORITIES

A. ASPB’s authorities:

1. A.R.S. § 41-511.05(2) authorizes ASPB to make agreements within the general scope of its activities and operations to enable it to adequately perform its duties.

2. A.R.S. § 41-511.04 (A)(7) and (A)(8) authorize ASPB to administer a state historic preservation program, including the program established pursuant to the National Historic Preservation Act of 1966, 16 U.S.C.A. section 470 *et seq.*
 3. A.R.S. § 41-511.02(B) and A.R.S. § 41-511.04(D)(4) authorize the State Historic Preservation Officer to administer the state historic preservation program and advise, assist, and monitor state and federal agencies and political subdivisions of this state in carrying out their historic preservation duties.
- B. Town of Prescott Valley authorities:
1. A.R.S. § 11-951 *et seq.* authorizes public agencies to enter into Agreements for the joint exercise of common powers.
 2. Arizona Antiquities Act, A.R.S. § 41-841 *et seq.*, A.R.S. § 13-3702, and A.R.S. § 13-3702.01 prohibit excavation or defacement of prehistoric and historic sites and collection of archaeological specimens from the sites without a permit issued by the director of the Arizona State Museum, and duty to report discoveries on lands owned and controlled by state, county, or municipality.
 3. A.R.S. § 9-494 authorizes a city to establish and maintain public parks and to acquire, hold and improve real property for that purpose.

VI. RESPONSIBILITIES

- A. ASPB is responsible for:
1. Formulating a set of procedures for training and administration of the volunteers.
 2. Creating and overseeing the conduct of a training program.
 3. Overseeing public information on a statewide level.
 4. Managing an on-line database for the purposes of tracking hours, reporting vandalism reports, submitting and storing volunteer MOUs and site information.
- B. Town of Prescott Valley is responsible for:
1. Identifying and assigning a Site Steward Coordinator (“SSC”) to work with the State Coordinator and the ASSP Regional Coordinator in the Prescott Region to provide guidance in supervising volunteer Site Steward activities on lands under its jurisdiction (refer to *Arizona Site Steward Land Manager Program Manual*, Roles and Responsibilities). The SSC, who works directly with the Regional Coordinator(s), is responsible for nominating sites to be monitored within the Town of Prescott Valley, developing and providing site kits to the program, developing local operating procedures on site scheduling, and providing support to the local region.
 2. Identifying priority sites within the Town of Prescott Valley that have been listed on the National Register of Historic Places or have been evaluated as eligible to be listed and to be monitored under the terms of the AZ Site Steward Program.
 3. Identifying law enforcement officers to be contacted and reporting procedures to be followed when vandalism or looting of archaeological resources is identified on its lands.
 4. Attendance at the annual AZ Site Steward Program Conference is highly recommended.
- C. Both Parties shall aim to:
1. Biannually, meet to evaluate the effectiveness of the AZ Site Steward Program, make recommendations, and acknowledge superior performances;
 2. Meet more often, if requested by either the AZ Site Steward Program Coordinator or any of the participating Regional Coordinators, to review and discuss proposals and plans; Work together to monitor the activities of the program.

VII. CORRESPONDENCE:

Program Administration

ASPB

Sean Hammond
Steward Program Coordinator
1110 W. Washington Street, Suite 100
Phoenix, AZ 85007
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Town of Prescott Valley

Casey Van Haren
Community Services Director
7501 E Skoog Boulevard, 3rd Floor
Prescott Valley, AZ 86314
928-759-3061
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VIII. DURATION AND TERMINATION OF MOU

- A. Duration: This MOU is entered into and is effective as of the date of last signature to this MOU and shall continue for ten (10) years from that date (“Initial Term”), unless terminated earlier by the Parties. This MOU may be extended at the expiration of the Initial Term for an additional ten (10) year term. This extension process can be repeated as necessary and when deemed appropriate by both Parties.
- B. Termination: This MOU may be terminated at any time by mutual consent of the Parties or may be terminated by either Party by giving (60) days written notice to the other Party.

IX. GENERAL TERMS AND CONDITIONS

- A. Arizona Law: The law of Arizona applies to this MOU including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.
- B. Amendment: The terms, conditions, and representations of the Parties contained in this MOU may not be orally amended, modified, or altered. Any amendment or modification of this MOU must be in writing and effective only after the authorized signature of both Parties. Amendments must be approved with the same formalities as with this MOU.
- C. Successors and Assigns: Neither Party may assign its rights or obligations under this MOU without the prior written consent of the parties hereto and any purported assignment without such consent shall be void and of no effect.
- D. Relationship of Parties: No partnership, joint venture, or other business relationship is established among the Parties to this MOU. Except as expressly provided in this MOU, no Party is liable for any acts, omissions or negligence on the part of any other Party or the other Party’s employees, agents, independent contractors, or successors-in-interest resulting in either personal injury, economic loss, or property damage to any individual or entity.
- E. Arbitration: The parties to this MOU agree to resolve all disputes arising out of or relating to this MOU through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.
- F. Non-Discrimination: Town of Prescott Valley shall comply with State Executive Order No. 2009-09 and all other applicable federal and state laws, rules and regulations, including the Americans with Disabilities Act.
- G. Cancellation for Conflict of Interest: The Parties are put on notice that this MOU is subject to cancellation pursuant to A.R.S. § 38-511.
- H. Immigration: The Parties agree to comply with Executive Order 2005-30, “Ensuring Compliance with Federal Immigration Laws by State Employers and Contractors,” and A.R.S. § 41-4401, the provisions and successor statutes of which are hereby incorporated by reference.

- I. Limitations: Nothing in this MOU shall be construed as limiting or expanding the statutory responsibilities of the Parties.
- J. Indemnification: To the extent permitted by law each Party (as Indemnitor) agrees to indemnify, defend, and hold harmless the other Party (as Indemnatee) from and against any and all claims, losses, liabilities, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as Claims) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnatee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

In addition, the Town of Prescott Valley shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the State of Arizona, any jurisdiction or agency issuing any permits for any work arising out of this MOU, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the Town of Prescott Valley's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.
- K. Entire MOU: This MOU constitutes the entire MOU of the Parties with respect to the subject matter hereof and supersedes all prior MOUs and understandings related to such subject matter.
- L. Other MOUs: This MOU in no way restricts either Party from participating in similar activities with other public or private agencies, organizations, and individuals.
- M. Severability: The provisions of this MOU are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the MOU.
- N. Review by Counsel: The Parties and their respective counsel have reviewed this MOU.
- O. Non-availability of funds: This MOU shall be subject to available funding and nothing in this MOU shall bind any party to expenditures of funds for purposes outlined in this MOU.

X. SIGNATURE AUTHORITY:

- A. This MOU is entered into and is effective as of the date of the last signature to this MOU.
- B. This MOU may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.
- C. The Parties acknowledge that signatures by electronic means are acceptable and legally binding.
- D. By signing below, the signer certifies the authority to enter into this MOU and has read the foregoing and agrees to accept the provisions herein.

ARIZONA STATE PARKS BOARD

By

Signature

Date

Bob Broscheid, Director
Arizona State Parks Board

**TOWN OF PRESCOTT VALLEY,
An Arizona municipal corporation**

APPROVED AS TO FORM:

Kell Palguta, Mayor

Date

Ivan Legler, Town Attorney