Collaborative Projects and Memoranda of Agreement (MOA)*

WHAT IS A MOA?

A Memorandum of Agreement (MOA), or Memorandum of Understanding (MOU), is a document that describes the terms of a cooperative agreement between two or more parties, as well as the goals of the cooperation. A MOA typically marks the beginning of a collaborative project, and is an opportunity for stakeholders to outline their visions, conduct debates, and resolve issues. A MOA is normally not considered to be a legal contract. The main difference is that a contract is an agreement where something of value is exchanged (for example goods or labor) – “John agrees to pay Jane $500 to create a website about his family’s history.” A MOA is an agreement for parties to work together to meet an objective, without necessarily exchanging anything – “John and Jane agree to work together on such and such terms in a collaborative project to document family histories.”

WHERE TO BEGIN

The process of crafting, revising, and executing a MOA, rather than the signed document itself, leads to relationship-building and successful collaborations. Parties involved in a collaborative project should agree to meet, preferably face-to-face, to work together on an outline for the MOA. All parties should strive to maintain excellent communications throughout the process, and consult with others who have been through this process before. Once a community has created a Cultural Heritage MOA, it can be used as a template for future projects, customized as needed for each project or to address different concerns.

WHY CRAFT A MOA FOR A CULTURAL HERITAGE PROJECT?

All cultural heritage projects, whether they are education, research, or community-based advocacy focused, include multiple stakeholders exchanging resources, such as time and knowledge. Crafting a MOA will promote exchanges that are fair, equitable, and culturally appropriate to all parties involved, and may help reveal potentially troublesome or contentious areas of the future project before it even begins. Developing a MOA also helps to define important terms of collaboration — Who will be involved? What mutual benefits or potential harms are involved? How will heritage be defined? How will dispute resolution take place? What are the costs? Who owns products resulting from the partnership? When will the project be completed?

TYPICAL MOA OUTLINE

A MOA can include as many or few sections as necessary. Typically, a MOA includes tailored versions of the following components:

I. Detailed Background // A history of relationship between the parties, including past injustices and past successful collaborations.

II. Purpose // A description of why the MOA is being crafted, and what each of the parties hopes to gain.

III. Definition of Terms and Parties // The inclusion of a glossary and detailed list of stakeholders may help avoid confusion later in the project. Stakeholders relevant to collaborative cultural heritage projects could include: Indigenous individuals, Indigenous organizations, museum staff, archaeologists, anthropologists, historians, and government officials.

IV. Principles of Collaboration // What ethical, moral, religious and/or legal principles/protocols/codes will guide the spirit of collaboration outlined in the MOA? Examples include the World Archaeological

*This Fact Sheet describes MOAs governing collaborative research and community-based projects, and does not provide specific guidance for MOAs developed per the United States National Historic Preservation Act (1966) or other cultural resources laws.

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INTELLECTUAL PROPERTY CONCERNS

The terms of an MOA can help determine ownership or use of intellectual or intangible Indigenous property or heritage. For example, for a MOA that guides an Indigenous cultural heritage research project where participants will interview community members, parties involved may consider including a statement about publication or ownership of Indigenous intellectual or intangible property, such as: “Researchers may use information collected during this project for educational purposes, but researchers cannot claim copyright or any exclusive rights to the acknowledged Indigenous intellectual property of [XXX community] such as traditional teachings or songs. The community retains the right to review and edit all reports and publishable documents that result from the research prior to publishing.” If products were generated as a result of the actions/projects within the MOA, the agreement may state where they will be housed and who will oversee this action.

SOURCES & FURTHER READING

- Community-Campus Partnerships for Health, University of Washington MOUs/MOAs. http://bit.ly/1Baq8gF
- The Navajo Nation and the Central Consolidated School District MOA. http://bit.ly/1ungeU0
- Who Should Use a Memorandum of Understanding? http://bit.ly/1BaeLFs