

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE
REDEVELOPMENT AGENCY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



221

FROM: Redevelopment Agency

SUBMITTAL DATE:
June 16, 2011

SUBJECT: Cultural Resources Tribal Monitoring for the Thermal Water and Sewer Improvements Project

RECOMMENDED MOTION: That the Board of Directors approve and authorize the Chairman to execute the Cultural Resources Tribal Monitoring Agreement between the Redevelopment Agency and the Torres Martinez Desert Cahuilla Indians.

BACKGROUND: The Board awarded the construction contract for the Thermal Water and Sewer Improvements Project (Project) on October 19, 2010. The Torres Martinez Desert Cahuilla Indians (Tribe) believes that the Project may traverse land which has been traced to and traditionally occupied by the Tribe and has requested agency to allow Native American monitors to observe ground disturbing activities during construction of Project.

(Continued)

Robert Field

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: No

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

MINUTES OF THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY

On motion of Supervisor Benoit, seconded by Supervisor Buster and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: June 28, 2011
xc: RDA

Kecia Harper-Ihem
Clerk of the Board
By: *Kecia Harper-Ihem*
Deputy

Prev. Agn. Ref.: 4.4 of 10/19/10; 4.3 of 08/10/10; 4.3 of 05/25/10 | **District:** 4 | **Agenda Number:** 4.16

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY: *Marshall Victor*
MARSHALL VICTOR
Environmental Concurrence

Dep't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND: (Continued)

The attached agreement is to provide for tribal monitoring during Project related ground disturbing activities by a Native American monitor. The agreement also formalizes procedures for the treatment of Native American human remains, grave goods, ceremonial items, and cultural resources in the event that any are found during ground disturbing activities during the construction of Project.

Compensation to the Native American monitor is at the sole expense of the Tribe. The Tribe assumes all financial responsibility for the use of Native American monitors on behalf of the Tribe. The tribal monitoring will have no impact on the County General Fund or the Project budget.

Counsel has reviewed the agreement and has approved it as to form. Therefore, Agency staff recommends that the Board execute the attached agreement.

Attachments:
Cultural Resources Tribal Monitoring Agreement (3)

CULTURAL RESOURCES TRIBAL MONITORING AGREEMENT
(Pre-Excavation Agreement)

Thermal Water and Sewer Improvement Project

I. PARTIES

The PARTIES to this Agreement are (1) the Torres Martinez Desert Cahuilla Indians, a federally recognized Indian tribe (hereinafter collectively "Tribe") and (2) Redevelopment Agency of the County of Riverside ("Agency").

All notices to the PARTIES shall be given at the addresses below:

Torres Martinez Desert Cahuilla Indians

Roland G. Ferrer, Planning Director
Torres Martinez Desert Cahuilla Indians Tribe
P.O. Box 1160
Thermal, CA 92274
(760) 397-0300 telephone
(760) 275-6851 cell phone

Agency

Riverside County Redevelopment Agency
Joaquin Tijerina, Project Manger
44-199 Monroe Street, Suite B
Indio, CA 92201
(760) 863-2529 telephone
(760) 863-2551 facsimile

All notices, requests and other communications required or desired to be served by either PARTY upon the other shall be addressed to the respective PARTIES as set forth above or to such other addresses as from time to time shall be designated by the respective parties and shall be sufficient if sent by U.S. first class, certified mail, postage prepaid, or express delivery service with a receipt showing the date of delivery.

II. SUBJECT MATTER

This Agreement concerns a project known as **Thermal Water and Sewer Project** ("PROJECT"). The Redevelopment Agency of the County of Riverside is the Lead Agency for the Project, and the agency responsible for environmental compliance of this PROJECT ("Lead Agency").

III. PURPOSE

The purpose of this agreement is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and cultural resources in the event that any are found in conjunction with construction of PROJECT. This Agreement also formalizes procedures for tribal monitoring during water and sewer line related ground disturbing activities performed in conjunction with the PROJECT. This Agreement is consistent with the California Environmental Quality Act, Cal. Public Resources Code § 21000 et seq. ("CEQA"). This Agreement is effective as of the date the last signature is affixed below.

IV. CULTURAL AFFILIATION

The Tribe believes in good faith that the PROJECT may traverse land which has been traced to and traditionally occupied by the Tribe and has requested Agency to allow tribal monitors to observe ground disturbing activities during construction of PROJECT. Any Native American human remains as defined in Section VII which are found in conjunction with the construction of this PROJECT shall be treated in accordance with Sections V through VIII of this Agreement. Cultural Resources shall be treated in accordance with Section IX of this Agreement. Significant sites shall be treated in accordance with Section X of this Agreement.

V. MOST LIKELY DESCENDENT

In the event that Native American human remains are found during construction of this PROJECT, the Parties understand that the determination of Most Likely Descendent ("MLD") under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission ("NAHC") upon notification to NAHC of the discovery of said remains at the PROJECT site. Until such time, neither the Tribe nor the Agency guarantees that the Tribe or one of its members will be so named. However, given the location of the site and the history and prehistory of the area, the Parties agree that their good faith belief is that, when and if such Native American human remains are discovered at the PROJECT site, the Torres Martinez Desert Cahuilla Indians will be named the MLD. It has been agreed by the Tribe, and will be relayed by the Tribe to the NAHC, that, if designated by the NAHC, Ernest Morreo will serve as MLD.

Should the NAHC determine that a member of an Indian tribe other than the Torres Martinez Desert Cahuilla Indians is the MLD, the provisions of this Agreement relating to the treatment of such Native American human remains shall be null and void in their entirety.

VI. COORDINATION WITH COUNTY MEDICAL EXAMINER'S OFFICE

The Agency or its PROJECT Consultant shall immediately contact the Riverside County Medical Examiner (Coroner) and the Tribe in the event that any human remains are discovered during the construction of the PROJECT. The Coroner shall ensure that notification is provided to the NAHC as required by California Public Resources Code Section 5097.98(a). Upon notification to the Coroner, ground disturbing activities in that location shall cease, and remains shall be left in the place where they were discovered until the Coroner has had the opportunity to inspect the remains in place and make a determination as required by State law, and until a final decision as to the treatment and disposition has been made pursuant to this Agreement and State law.

VII. TREATMENT OF NATIVE AMERICAN REMAINS

In the event that Native American human remains are found during the ground disturbing activities for the PROJECT and the Tribe or a member of the Tribe is determined to be MLD pursuant to Section V of this Agreement, the following provisions shall apply.

The term "Native American human remains" encompasses more than human bones because the Desert Cahuilla's traditions call for the ceremonial burning of human remains and animals. Ashes, human remains and associated grave goods, including but not limited to animal bones and other remnants from burning ceremonies found with human remains, are to be treated in the same manner as human bones or human bone fragments that remain intact.

The Tribe, upon designation as MLD, shall be allowed, pursuant to California Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make recommendations as to how the Native American human remains and associated grave goods should be treated. The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of receiving notification of the MLD determination from the NAHC.

The Agency shall discuss and confer with the Tribe regarding all reasonable options with regard to its preferences and recommendations for treatment. The PARTIES agree to discuss in good faith what constitutes "appropriate dignity," as that term is used in the applicable statutes and in the Tribe's customs and traditions.

In addition, pursuant to California Public Resources Code §5097.98(f), upon discovery of multiple human remains, the Agency agrees to consult with the Tribe to consider appropriate treatment of multiple human remains.

The PARTIES acknowledge that the Tribe's general preference is that all human remains not be disturbed and the Agency agrees in good faith to accommodate that preference

when feasible, however this cannot include preservation in-place within the construction zone. Reburial of human remains must be accomplished in compliance with California Public Resources Code Section 5097.98(a) and (b).

VIII. NON-DISCLOSURE OF LOCATION OF REBURIALS

It is understood by the PARTIES that, unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 et seq., except as may be necessary for the future protection and maintenance of the area by the successors in interest of that area. The Coroner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r).

IX. TREATMENT OF CULTURAL RESOURCES

The PARTIES agree that the treatment of all grave goods, ceremonial items, and cultural resources, will reflect the traditional religious beliefs, customs, and practices of the Tribe identified as the MLD. Cultural resources are defined as material remains and sites associated with human activities, and may include but are not limited to; artifacts, carvings, tools, fragments of pottery, and similar items of cultural significance.

To the extent permitted by applicable laws, rules, regulations and/or ordinances of any governmental agency having jurisdiction, the Agency agrees to consult with the Tribe on the appropriate treatment or disposition of all cultural items associated with any human remains discovered, including ceremonial items or religious artifacts, which may be found at the PROJECT site, unless the Agency is otherwise ordered by a court or agency of competent jurisdiction. The Agency waives any and all claims to ownership of Tribal ceremonial and cultural items which may be found on the PROJECT site in favor of the Tribe identified as the MLD. If temporary possession of cultural or religious items by the Agency or an agent, subcontractor, or representative of the Agency is necessary (for example a PROJECT archaeologist), said entity or individual shall not possess those items for longer than is reasonably necessary. Said entity or individual shall maintain contact with the Tribe's designated representative regarding the status and progress of the cataloging of any cultural items found, which shall be done in a prompt manner.

X. SIGNIFICANT SITES IMPACTED BY PROJECT

All PARTIES agree that if additional significant sites or sites not identified as significant in the PROJECT environmental review process, but later determined to be significant, are located within the PROJECT impact area, such sites will be subjected to further archaeological and cultural significance evaluation by the Agency, as Lead Agency, to determine if additional mitigation measures are necessary to treat sites in a culturally

appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources.

XI. WORK STATEMENT FOR TRIBAL MONITORS

Exhibit A, attached hereto and incorporated herein, specifies the geographical area of PROJECT. The description of work for Tribal monitors regarding PROJECT is attached hereto as Exhibit B, consisting of 2 pages, and incorporated herein by reference. Exhibit B specifies the construction activities that Tribal monitors will monitor, the size of the monitoring crew, the authority of the monitoring crew, and other pertinent provisions. Monitoring activities will be limited to public right of way only and shall not extend onto private or public lands along alignments of water or sewer lines whether or not they attach to sewer or water lines.

XII. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and inure to the benefit of the heirs, successors, representatives, executors, administrators, and assigns of the PARTIES with regard to the PROJECT area and any person or entity obligated to comply with environmental and cultural protection laws applicable to the PROJECT.

XIII. ENVIRONMENTAL COMPLIANCE

Nothing in this Agreement shall excuse the Lead Agency on this PROJECT or the Agency from their obligations under any applicable state or federal laws or regulations, including but not limited to the California Environmental Quality Act (CEQA); Public Resources Code § 21000 et seq., the National Historic Preservation Act ("NHPA") 16 U.S.C. § 470 et seq.; California Public Resources Code Section 5097.98, 5097.98 (c) and 5097.99; California Health and Safety Code Section 7050.5 (c); California Government Code Section 6254, the Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 et seq.; the California Native Graves Protection and Repatriation Act of 2001, California Health and Safety Code §§8010 et seq.; the Native American Free Practice of Religion Act, 16 U.S.C. § 1996, et seq., and the First Amendment to the United States Constitution. Nothing in this Agreement is intended to make any of the above-referenced laws applicable where such laws would otherwise be inapplicable.

XIV. INDEMNITY

Each of the Tribe and the Agency shall indemnify, defend and hold harmless the other party, and their respective agents, employees and contractors, from any personal injury, death or property damage resulting from the negligent or intentional acts and/or omissions of the indemnifying party, its agents, employees, members and contractors, while on the PROJECT site. In addition, the Tribe shall indemnify, defend and hold

harmless the Agency from any claims, causes of action, damages and liabilities arising out of the actions or inactions of the Tribe in connection with this Agreement.

XV. LIMITED WAIVER OF SOVEREIGN IMMUNITY

A. Whenever during the term of this Agreement, any disagreement or dispute arises between the Parties as to the interpretation of this Agreement or of any rights or obligations arising hereunder, such matter shall be resolved whenever possible by the Parties first meeting in person not later than ten (10) days after receipt of written notice describing the dispute, and conferring in a good faith attempt to resolve the dispute through negotiations, unless both Parties agree in writing to an extension of time. Because the purpose of meeting and conferring is to try to arrive at a mutually agreeable resolution of the dispute which may include a compromise or settlement, the Parties agree that statements (including but not limited to admissions) made during the meet and confer process are confidential and may not be relied upon or introduced as evidence for any purpose, including impeachment, in any arbitration or other proceeding. Nevertheless, any evidence otherwise subject to discovery or otherwise admissible shall not be protected from discovery or from use as evidence simply as a result of it having been used in connection with the meet and confer process.

B. If the dispute is not resolved to the satisfaction of the Parties within thirty (30) days after the first meeting as set out in this Section, then, but only if the Parties have complied with the meet and confer requirement above, either Party may seek a resolution by arbitration in accordance with the procedures herein. Either Party wishing to pursue resolution by arbitration may propose binding arbitration to the other Party after the expiration of the original thirty (30) days after the first meeting. The Parties shall meet within ten (10) days after an arbitration proposal is made to determine the merits and cost(s) to the Parties of arbitration. If the Parties agree at that time to binding arbitration, the outstanding claim, controversy or dispute shall be submitted to binding arbitration conducted by the American Arbitration Association ("AAA") or JAMS in accordance with its applicable rules then in effect, without regard to any rule or provision which might be construed as a limited or general waiver of the Tribe's sovereign immunity. Such arbitration shall be held on the Tribe's Reservation or such other place as the Parties agree. Judgment on any arbitration award may be confirmed by and entered pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., in the United States District Court or in the event such court lacks jurisdiction, the courts of the State of California; provided such award is consistent with this Agreement and the Tribe's limited waiver of sovereign immunity. Appeal may be taken from a decision of such court regarding confirmation and/or enforcement of the decision in arbitration. No court may review the factual basis for the arbitration decision. The arbitration will be heard by a single arbitrator determined by the Parties. If the Parties cannot agree on an arbitrator, then the American Arbitration Association or JAMS shall appoint an arbitrator pursuant to its rules. The arbitrator should be a retired federal judge, if available. If not available, the arbitrator must have some knowledge of federal Indian

law and commercial transactions and be either a licensed attorney with at least fifteen (15) years' experience or a retired state judge. The arbitrator must be impartial, neutral, and unbiased. No person may serve as an arbitrator if that person is related to, affiliated with, or has represented in a legal capacity any part to the arbitration proceeding.

C. If arbitration is agreed upon, any party may engage in discovery as permitted under the appropriate rules of the AAA or JAMS. The arbitration hearing should be conducted no later than sixty (60) days after an arbitrator is appointed and a written decision should be rendered within thirty (30) days thereafter. The arbitration decision will include written findings of fact, conclusions of law, and a calculation of how damages, if any, were determined. The arbitrator may compel arbitration and order injunctive and/or equitable relief. The decision of the arbitrator shall be final and binding upon the Parties, self-executory, and without further appeal or any judicial confirmation, recourse, or other process other than for confirmation and enforcement of the arbitration judgment pursuant to the Federal Arbitration Act. Neither the arbitrator nor any court shall have the power to compel, overturn, negate, amend, repeal, or in any manner modify any resolution, ordinance, statute, regulation, order or decision of the Tribe or any instrumentality or agency of the Tribe, regardless how constituted, that has the force of law. Each side shall bear its own costs, attorney's fees and one half of the costs and expenses of the arbitrator/arbitration.

D. If either party declines to agree to binding arbitration and any issues remain unresolved to the reasonable satisfaction of any party after the meet and confer, the unsatisfied party may bring an action in the Superior Court of California for _____ County.

E. The Tribe hereby grants a limited waiver of its sovereign immunity from unconsented suit solely for actions brought by Agency (and no other person or entity) in accordance with the process set forth herein. This limited waiver is to be strictly and narrowly construed in favor of the Tribe and may be enforced only under the conditions set forth herein. The Agency shall not be required to exhaust any applicable tribal remedies. Arbitration or suit must be brought within one year of the accrual of any cause of action. This limited waiver may only be invoked if the invoking party is not in breach of any terms of this Agreement and this Agreement remains in full force and effect. No causes of action, self-help remedies, or claims in law or in equity are cognizable against the Tribe except actions against the Tribe itself for specific performance, injunctive relief, or direct damages arising out of the Agreement. No claim for indirect, special, consequential, punitive, or other damages shall be made, entertained, or awarded against the Tribe whether by way of indemnification or otherwise. The Tribe does not waive its sovereign immunity with respect to actions by third parties or disputes between the Tribe and Agency not arising out of this Agreement. This limited waiver does not allow any actions to be brought against the tribal council, tribal officers, tribal attorneys, tribal employees, tribal agents, tribal

members, or any other person or entity acting on behalf of the Tribe. This Agreement shall not be construed as waiving sovereign immunity except for the limited waiver given herein by Tribe.

F. The Parties agree that any dispute resolution meetings or communications, arbitration proceedings, or agreements among the Parties settling or otherwise relating to any claims arising from or related to this Agreement shall be and remain confidential to the extent permitted by applicable law.

G. The Parties agree that during any kind of controversy, claim, disagreement or dispute, including a dispute as to the validity of this Agreement, the Parties shall continue to possess the rights, duties and obligations set forth in this Agreement, and the Parties shall continue their performance of the provisions of this Agreement.

XVI. SEVERABILITY

Should any part of this Agreement be found by any court or agency of competent jurisdiction to be to any extent invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

XVII. LIMITATION ON SCOPE

This Agreement is unique to this PROJECT only and does not set a precedent for other projects, and does not extend to other agencies, districts or utility companies that may perform work in association with the PROJECT.

XVIII. AUTHORITY TO EXECUTE

Agency represents and warrants to Tribe that Agency has full power to enter into this Agreement; that all Agency actions and approvals have been taken which are necessary to make this Agreement a binding and enforceable obligation of Agency; that the individual signing this Agreement is authorized to execute this Agreement on behalf of Agency; and that Agency's execution, delivery and performance of this Agreement is not in conflict with, and will not cause an event of default under any agreement or instrument to which Agency is bound.

Tribe hereby represents and warrants to Agency that Tribe has the full power to enter into this Agreement; that all actions and approvals have been taken which are necessary to make this Agreement a binding and enforceable obligation of Tribe; that be entering into this Agreement, Tribe is not in default of any obligation to any third party; and that Tribe's execution, delivery and performance of this Agreement is not in conflict with, and will not cause an event of default under any agreement or instrument to which Tribe is bound.

XIX. COUNTERPARTS

This Agreement may be signed in two or more counterparts and will be effective when all PARTIES and signatories have affixed their signatures to two or more of the counterparts and said counterparts have been delivered to all PARTIES, at which time the counterparts together will be deemed one original document.

XX. REPRESENTATION BY COUNSEL

Each party hereto has had the opportunity to seek the advice of counsel of its choosing concerning this Agreement. This Agreement is deemed as to have been jointly prepared by all of the PARTIES hereto, and any uncertainty or ambiguity existing herein shall not be interpreted against any party on the ground that it was the drafter.

XXI. MISCELLANEOUS PROVISIONS

The term of this Agreement shall commence on the date this Agreement is executed by both parties and shall end the earliest of either completion of ground disturbing activities or twelve (12) months after execution. The Agreement may be terminated by either PARTY for its convenience and without cause upon thirty (30) days written notice to the other party. Notices shall be sent via U.S. first class, certified mail, postage prepaid, or express delivery service with a receipt, to the individual identified in Section I.

Without limiting or diminishing Tribe's obligation to indemnify and hold the Agency harmless, Tribe's and/or tribal monitors shall procure and maintain or cause to be maintained at their sole cost and expense, general liability insurance coverage during the term of this Agreement.

No waiver or relinquishment of any right, explicit or implicit, created by this Agreement at any one time or times shall be deemed a waiver of relinquishment of that right for all or any other times.

This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture between Tribe and Agency. Tribe is acting in an independent capacity and shall not in any manner be considered to be a consultant, contractor or employee of Agency, and Tribe shall be responsible for the satisfaction of any and all obligations with respect to any person or entity that the Tribe retains, employs or contracts with to assist with its performance under this Agreement.

This Agreement sets forth the final and complete understanding of the PARTIES. It is understood and agreed that there are no other representations with respect to this

Agreement and that this Agreement supersedes all prior discussions, agreements and undertakings relating to the subject matter hereof.

It is agreed that the rights, interest, understandings, and obligations of the respective PARTIES pertaining to the subject matter of this Agreement may not be amended, modified or supplemented in any respect except by a subsequent written instrument evidencing the express written consent of each of the parties hereto and duly executed by the PARTIES.

Date: _____
Tribe: Torres Martinez Desert Cahuilla Indians

By: _____
Mary L. "Maxine" Resvaloso
Its: Tribal Chairperson

Date: JUN 28 2011

AGENCY: REDEVELOPMENT AGENCY OF THE COUNTY OF RIVERSIDE

By: Bob Buster
Its: Chairperson, Board of Directors
BOB BUSTER

ATTEST:
Kecia Harper-Ihem, Clerk

By: [Signature]
Deputy

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 6/30/11
MARSHAL VICTOR DATE

Agreement and that this Agreement supersedes all prior discussions, agreements and undertakings relating to the subject matter hereof.

It is agreed that the rights, interest, understandings, and obligations of the respective PARTIES pertaining to the subject matter of this Agreement may not be amended, modified or supplemented in any respect except by a subsequent written instrument evidencing the express written consent of each of the parties hereto and duly executed by the PARTIES.

Date: June 16, 2011
Tribe: Torres Martinez Desert Cahuilla Indians

By: Mary L Resvaloso
Mary L Resvaloso
Its: Tribal Chairwoman

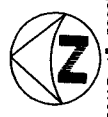
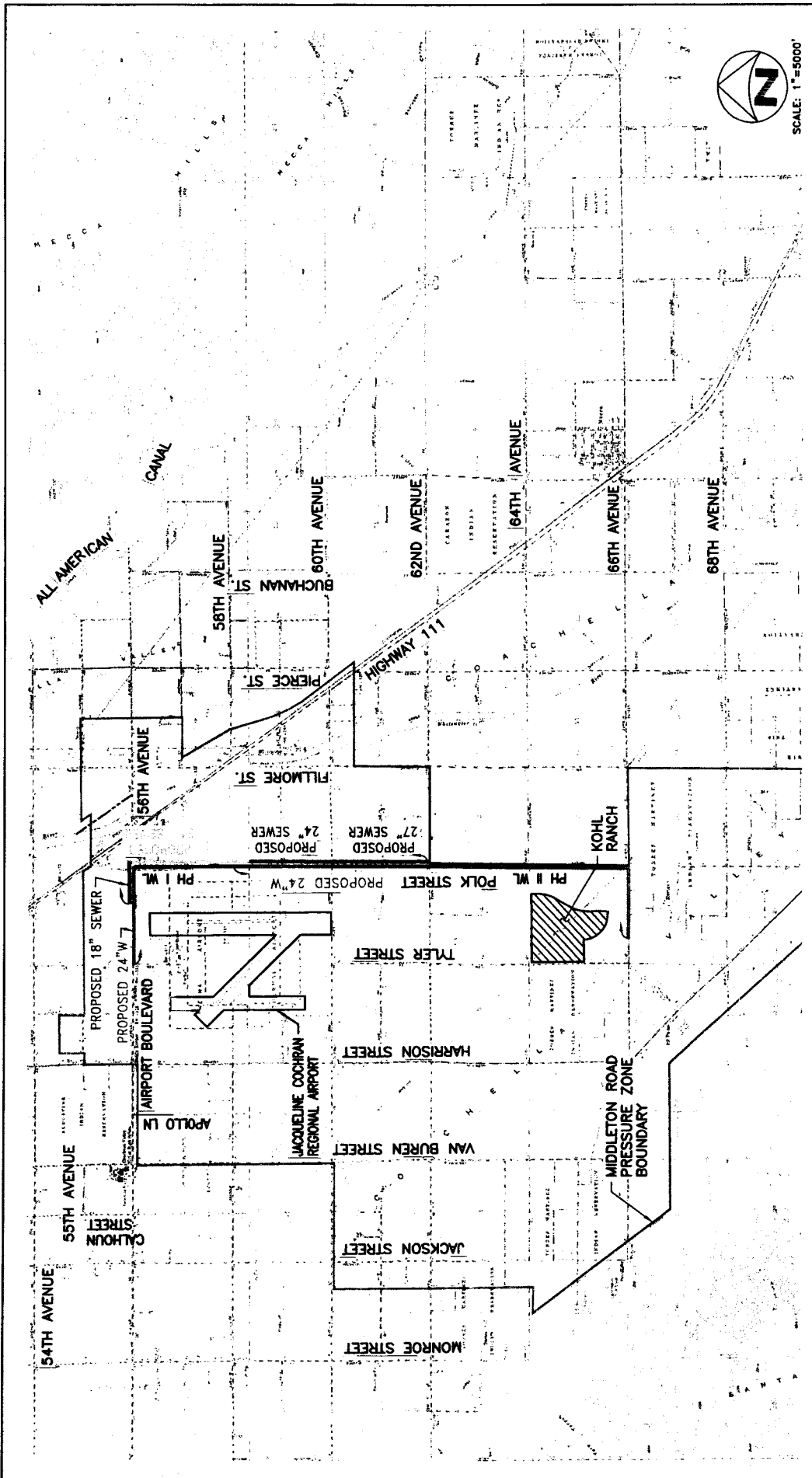
Date: _____

AGENCY: REDEVELOPMENT AGENCY OF THE COUNTY OF RIVERSIDE

By: _____
Its: Chairperson, Board of Directors

ATTEST:
Kecia Harper-Ihem, Clerk

By: _____
Deputy



SCALE: 1"=5000'

LEGEND

- PROPOSED 24" WATERLINE
- PROPOSED 18" SEWER
- PROPOSED 21" SEWER
- PROPOSED 24" SEWER
- PROPOSED 27" SEWER

RIVERSIDE COUNTY REDEVELOPMENT AGENCY
THERMAL WATER AND SEWER IMPROVEMENTS PROJECT

EXHIBIT

A

PROPOSED WATER AND SEWER ALIGNMENTS

DATE: 03/10/09 DRAWN BY: JCS CHECKED BY: SS W.O.: 807-34

SCALE: 1"=5000'

KRUEGER STUTWART INCORPORATED
3602 University Ave., Riverside, CA 92501 • 951-881-8600

EXHIBIT B
CULTURAL MONITORING
FOR THE
THERMAL WATER AND SEWER PROJECT

SPECIFICATIONS:

Given the nature and sensitivity of the archaeological sites and cultural resources that may be in the PROJECT area, the Tribe may direct Tribal monitors to be present during ground disturbing activities in conjunction with the PROJECT. Native American monitors shall be knowledgeable about the Tribe's culture and traditions and be familiar with archaeological practices, as well as, federal and state laws and regulations regarding Native American cultural concerns. Tribal monitors shall not assume any of the responsibilities of the archaeological consultant (Consultant) and/or archaeological monitor hired by the Agency to provide mitigation monitoring services. Monitors shall cooperate with Agency's archaeological monitors, Field Contact Representative, Agency's Project Manager, General Contractor and Construction Engineer.

In the event that human remains or suspected human remains and/or cultural resources, as defined in Section VII and Section IX. of the CULTURAL MONITORING AGREEMENT (hereinafter AGREEMENT), are found during the ground disturbing activities at the PROJECT, tribal monitors will contact Agency's Consultant and the Field Contact Representative who will temporarily halt and/or relocate grading or excavation activities pending further investigation by the Coroner, pursuant to California Health & Safety Code §7050.5. Any stopping or relocation of work within the PROJECT shall be coordinated with the onsite PROJECT superintendent and shall be only as necessary to allow the Consultant to conduct further controlled excavations to evaluate the significance of discovered cultural items and to identify or confirm the presence of human remains in cooperation with the Tribal monitor.

If Native American human remains are identified, coordination of the treatment of those remains, as defined in Section VII of AGREEMENT, will be conducted in accordance with Sections V through VIII of said AGREEMENT. Cultural resources shall be treated in accordance with Section IX of the Agreement. Significant sites shall be treated in accordance with Section X of the Agreement.

While the PROJECT is currently in progress, a field meeting of all project managers and the Consultant shall be held at the direction of the Agency to clarify participation of the Native American monitor and to review the procedures and protocols should human remains and/or cultural resources be identified. The Torres Martinez Desert Cahuilla Indians Tribal Cultural Resource Program Representative or the Tribe's designated representative shall be invited to participate in this conference.

PROJECT TO BE MONITORED:

Monitoring shall encompass water and sewer line ground disturbing activities within the public right of way for the construction of the Thermal Water and Sewer Line as shown on the project site as set forth in Exhibit A.

PROJECT CREW SIZES:

For purposes of determining Tribal monitoring crew sizes, a written schedule of ground disturbing activities will be submitted by the Agency to the Tribe or their designated representatives in a timely manner.

The Parties to this AGREEMENT anticipate that Tribal monitoring shall consist of one (1) person. If the scope of work changes to require additional monitors (for example, if inadvertent discoveries of cultural resources are made or simultaneous excavation in two (2) different geographic areas occurs), additional Native American monitors may become involved as necessary to address Tribal concerns.

On behalf of the Tribe, the Torres Martinez Desert Cahuilla Indians Tribal Cultural Resource Program Representative, will act as the contact point for referral of an appropriate Native American monitor for the PROJECT. The Tribe recognizes that dangerous conditions can exist on the work site, particularly during grading and trenching operations, and shall be informed of these dangers by the Tribe Program Representative. The Native American Monitor(s) must assume responsibility for his or her personal safety and compliance with all health, safety laws and regulations, including on-site job rules and regulations.

COMPENSATION:

Compensation to the Native American monitor is at the sole expense of the Tribe. The Tribe assumes all financial responsibility for the use of Native American monitors on behalf of the Tribe.