

FORM APPROVED COUNTY COUNSEL *12/15*
 BY: *GREGORY P. PRIAMOS* DATE

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

133A



FROM: TLMA – Transportation Department

SUBMITTAL DATE:
 August 13, 2015

SUBJECT: Memorandum of Agreement Between the Coachella Valley Conservation Commission and the County of Riverside Regarding Acquisition of Mitigation Land for the Seminole Drive Extension Project; CEQA Exempt. 5th District; [\$130,000]; SB 621 Indian Gaming Special Distribution Funds 100%

RECOMMENDED MOTION: That the Board of Supervisors:

1. Find the attached Memorandum of Agreement (MOA) with the Coachella Valley Conservation Commission (CVCC) exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines (Section 15325, Class 25); and
2. Authorize the Chairman of the Board to execute the Memorandum of Agreement Between the Coachella Valley Conservation Commission and the County of Riverside Regarding Acquisition of Mitigation Land for the Seminole Drive Extension Project.

Patricia Romo
 Patricia Romo
 Assistant Director of Transportation

Juan C. Perez
 Juan C. Perez
 Director of Transportation and Land Management

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (Per Exec. Office)
COST	\$ 130,000	\$ 0	\$ 130,000	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: SB 621 Indian Gaming Special Distribution Funds (100%).
Budget Adjustment: No
For Fiscal Year: 15/16

C.E.O. RECOMMENDATION:
 APPROVE
 BY: *Alex Gann*
 Alex Gann
 County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
 Nays: None
 Absent: None
 Date: September 15, 2015
 xc: Transp.

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

- Positions Added
- Change Order
- A-30
- 4/5 Vote

Prev. Agn. Ref.: District: 5 Agenda Number:

3-25

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Memorandum of Agreement Between the Coachella Valley Conservation Commission and the County of Riverside Regarding Acquisition of Mitigation Land for the Seminole Drive Extension Project; CEQA Exempt. 5th District; [\$130,000]; SB 621 Indian Gaming Special Distribution Funds 100%
DATE: August 13, 2015
PAGE: 2 of 3

BACKGROUND

Summary

The County proposes to construct the Seminole Drive Extension Project (Project) in the Cabazon area. The project will extend the existing Seminole Drive from where it currently dead ends, one mile west of Rushmore Avenue, to Rushmore Avenue. The new two-lane paved road will be approximately one mile long and complete a missing gap providing for a continuous frontage road north of Interstate 10 (I-10), between Malki Road and Haugen Lehman Way. The Seminole Drive extension project is one of the identified projects of the I-10 "Lifeline" Emergency Action Plan to improve travel through the San Gorgonio Pass area, particularly when I-10 access is blocked in emergency events.

The United States Fish and Wildlife Service (USFWS) determined that the project will have an adverse impact to approximately eight acres of desert tortoise habitat. The new road will traverse Morongo Band of Mission Indian tribal land and because tribal lands are not part of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), the service required the County to purchase, as a conservation measure, suitable desert tortoise habitat within an appropriate CVMSHCP conservation area at a 2:1 ratio for permanent impacts to desert tortoise habitat. The MOA outlines the roles and responsibilities of the County and the CVCC, whereby the CVCC will act as the County's agent to complete acquisition and conserve Assessor Parcel Number (APN) 671-170-010, a 17.5 acre parcel located in upper Mission Creek along Highway 62, to satisfy the mitigation requirement.

The MOA with the Coachella Valley Conservation Commission is exempt from CEQA per CEQA Guidelines (Section 15325, Class 25) because the MOA involves the acquisition, sale, or other transfer of areas to preserve the existing natural conditions, including plant or animal habitats. Under the terms of the MOA, the County will purchase the mitigation land for the appraised value of \$80,000 and reimburse CVCC \$50,000 for the cost of the appraisal report and the cost of the endowment for conservation of the property.

Impact on Residents and Businesses

SB621 Indian Gaming Special Distribution Funds, provided to the Transportation Department through a grant, will be used by the CVCC for the purchase of the 17.5 acre mitigation property, which will be owned, maintained, and conserved by the CVCC as desert tortoise habitat. Transportation Department actions will support the conservation and protection of desert tortoise species while allowing businesses and residences to have alternative emergency access in the Whitewater community. The Seminole Drive Extension Project is a part of the I-10 "Lifeline" Emergency Action Plan in the Cabazon/San Gorgonio Pass area.

SUPPLEMENTAL:

Additional Fiscal Information

Under the MOA, the County will purchase mitigation land, APN 671-17-010, for \$80,000. The County will also reimburse the CVCC for the appraisal, endowment, and transaction costs. The appraisal report prepared by Capital Realty Analysts cost \$4,700. The transaction and endowment for perpetual conservation of APN 671-170-010 will be \$45,300.

Contract History and Price Reasonableness

Capital Realty Analysts (CRA) completed an appraisal report (dated 3/2/2015) for the CVCC. Based on comparable properties in the subject neighbor and competing areas, the appraised value of APN 671-170-010 is fair.

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11: Memorandum of Agreement Between the Coachella Valley Conservation Commission and the County of Riverside Regarding Acquisition of Mitigation Land for the Seminole Drive Extension Project; CEQA Exempt. 5th District; [\$130,000]; SB 621 Indian Gaming Special Distribution Funds 100%

DATE: August 13, 2015

PAGE: 3 of 3

ATTACHMENTS

- Figure 1 – Project Vicinity
- Figure 2 – Project Location
- Memorandum of Agreement between the CVCC and the County regarding acquisition of mitigation land for the Seminole Drive Extension Project, including the CVCC's Request for Disbursement of RCTD Funds dated May 19, 2015
- CVCC Request for Disbursement of RCTD Funds
- December 2, 2014, Informal Section 7 Consultation Request for Seminole Drive Extension Project, Riverside County, CA
- Notice of Exemption

**MEMORANDUM OF AGREEMENT BETWEEN THE
COACHELLA VALLEY CONSERVATION COMMISSION
AND THE COUNTY OF RIVERSIDE
REGARDING ACQUISITION OF MITIGATION LAND
FOR THE SEMINOLE DRIVE EXTENSION PROJECT**

This Memorandum of Agreement ("MOA") is made and entered into this 5th day of September, 2015, by and between the County of Riverside ("County") and the Coachella Valley Conservation Commission ("CVCC"), and is based on the following representations and statements of purpose:

RECITALS

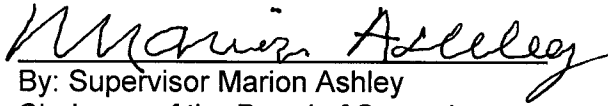
- A. The Riverside County Transportation Department ("RCTD") is proposing the Seminole Drive Extension Project ("Project") which will result in the construction of an emergency access route between Cabazon and the community of Whitewater within the San Gorgonio Pass, Riverside County, California. Specifically, RCTD proposes to extend Seminole Drive from where it currently terminates on the Morongo Band of Mission Indian lands to the intersection of Rushmore Avenue and Kimdale Drive in the community of Whitewater. The Project will traverse existing tribal lands, is approximately one mile in length, and consists of two 14-foot wide lines, with unimproved graded shoulders extending 8-feet from the pavement edge. The Project will result in permanent impacts to 8.1 acres of lightly disturbed Sonoran creosote bush scrub.
- B. The United States Fish and Wildlife Service (the "Service") has determined that due to the disturbance on Morongo Band of Mission Indians tribal lands created by the Project, there will be an adverse impact to desert tortoise habitat, and therefore, per the December 2, 2014 Informal Section 7 Consultation Request for the Project, the Service is requiring mitigation that includes the conservation of specific desert tortoise habitat in the area known as Upper Mission Creek.
- C. Because tribal lands are not a part of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), the Service has required the County to purchase specific desert tortoise habitat as mitigation for the Project. Specifically, Conservation Measure 6 in the December 2, 2014 Informal Section 7 Consultation letter issued by the Service requires that "funds will be provided to the Coachella Valley Conservation Commission (CVCC) for the acquisition of suitable desert tortoise habitat within an appropriate Coachella Valley Multiple Species Habitat Conservation Plan Conservation Area at a 2:1 ratio for permanent impacts to desert tortoise habitat, and a conservation instrument acceptable to the CVCC will be recorded for the acquired acres."
- D. On March 12, 2015, the Service amended Conservation Measure 6 to include the following statement, "Prior to construction, the RCTD and the Coachella Valley Conservation Commission (CVCC) will sign a Memorandum of Agreement outlining the roles and responsibilities of the RCTD and CVCC, including assurance mechanisms (e.g., performance bonds or escrow accounts to assure adequate funding) if habitat cannot be acquired prior to ground disturbing activities."
- E. County staff has been working with CVCC to identify and acquire suitable land to satisfy the mitigation requirements of Conservation Measure 6 detailed above and has identified APN 671-170-010 as suitable mitigation land.

- F. The Service has determined that APN 671-170-010, a 17.5 acre parcel located in Upper Mission Creek along Highway 62, will satisfy the mitigation requirement set forth in Conservation Measure 6 detailed above.
- G. County, through the RCTD, has requested that CVCC act as the County's agent to complete the land conservation/acquisition and have CVCC take title to APN 671-170-010, conserve the parcel through a recorded legal instrument acceptable to the Service and manage the land in perpetuity.
- H. At its meeting of February 12, 2015, CVCC authorized its Executive Director and/or Chair to sign any documents necessary for CVCC to purchase and take title to APN 671-170-010 with acquisition, appraisal, endowment and transaction costs paid by County.
- I. On May 19, 2015, CVCC issued a "Request for Disbursement of RCTD Funds", attached hereto as Exhibit "A" and incorporated herein by reference, for the purchase of APN 671-170-010 with an escrow completion date of July 15, 2015.
- J. Escrow completion for the acquisition of APN 671-170-010 has been extended to October 30, 2015 with all other details of Exhibit A remaining in effect.
- K. Through this MOA, the County and CVCC wish to clarify and approve certain agreements related to the acquisition and conservation of the mitigation land consistent with Conservation Measure 6 detailed above.

WHEREFORE, the parties mutually agree as follows:

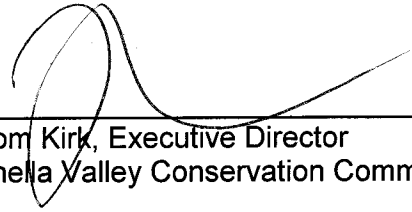
1. Incorporation of Recitals: CVCC and the County hereby affirm the facts as set forth in the recitals above and agree to incorporate the Recitals as though fully set forth herein.
2. Mitigation Land Costs: No later than October 30, 2015, County shall deposit \$80,000 (Eighty Thousand Dollars) into the escrow account at First American Title, as detailed in Exhibit A, to be used solely for the purchase of APN 671-170-010. \$80,000.00 is the fair market value for the mitigation land based upon an appraisal report dated March 2, 2015 prepared for the CVCC by Capital Realty Analysts.
3. Appraisal, Endowment and Transaction Costs: The appraisal report prepared by Capital Realty Analysts was \$4,700 (Four Thousand Seven Hundred Dollars). As determined by CVCC, an endowment for perpetual conservation of APN 671-170-010 shall be \$31,500 (Thirty One Thousand Dollars) which is \$1,800 per acre for 17.5 acres. After the close of escrow, County shall reimburse CVCC for all appraisal and transaction costs, and shall fund an endowment for the perpetual conservation of APN 671-170-010, pursuant to separate invoice to be issued by CVCC for actual costs incurred by CVCC, with a total cost not to exceed \$50,000 (Fifty Thousand Dollars) including the above referenced appraisal report costs and endowment funding.
4. If APN 671-170-010 fails to close escrow, CVCC will meet and confer with the Service and County to identify other suitable land for mitigation, consistent with Conservation Measure 6 detailed above, prior to ground disturbance activities for the Project.

IN WITNESS WHEREOF, the parties hereto have duly caused this Memorandum of Agreement to be approved and executed by their authorized representatives as of the last date set forth below.



By: Supervisor Marion Ashley
Chairman of the Board of Supervisors
County of Riverside

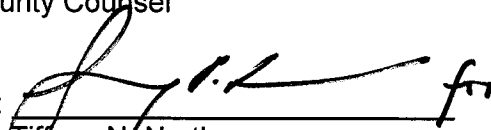
Date: SEP 15 2015



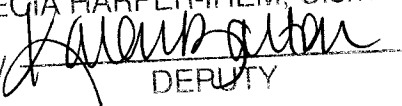
By: Tom Kirk, Executive Director
Coachella Valley Conservation Commission

Date: _____

Approved As To Form:
Gregory P. Priamos
County Counsel

By: 
Tiffany N. North
Deputy County Counsel IV-S

ATTEST:
KEGIA HARPER-IHEM, Clerk

By: 
DEPUTY



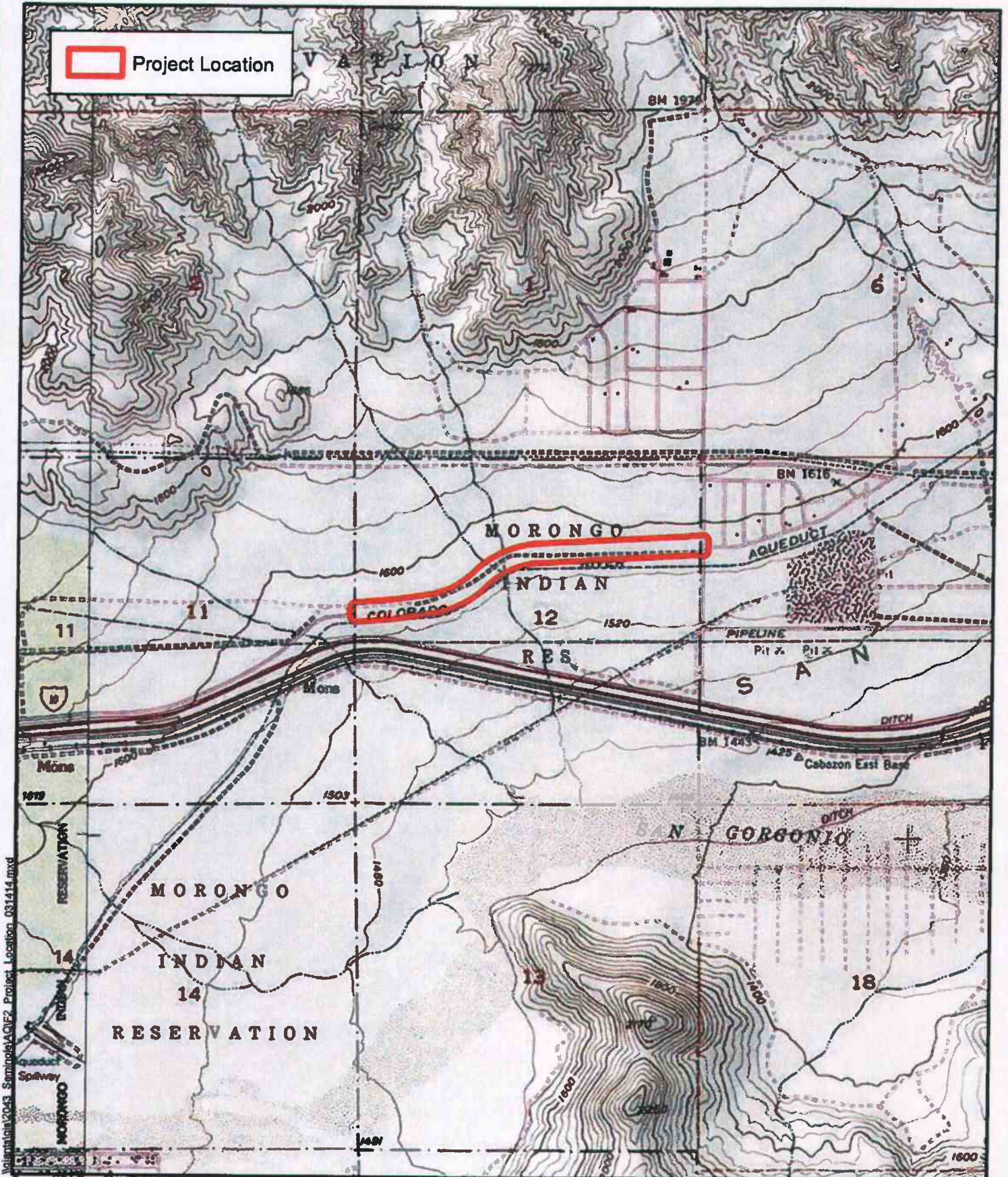
V:\2013_Seminole\Cultural\EA_Vicinity_Map-112613.mxd

Source: ESRI 2013; Dokken Engineering 11-26-2013; Created By: Z. Liptak



0 25 50 Miles

FIGURE 1
Project Vicinity
 EA 10-4A3354L
 Seminole Drive Extension Project
 Riverside County and the Bureau of Indian Affairs
 Riverside County, California



Source: USA Topo Map; Dokken Engineering 3/14/2014; Created By: zach

FIGURE 2

Project Location

Seminole Drive Extension Project
 Riverside County and Bureau of Indian Affairs
 Riverside County, California



0 0.25 0.5 0.75 1 Miles

COACHELLA VALLEY CONSERVATION COMMISSION



Cathedral City • Coachella • Desert Hot Springs • Indian Wells • Indio • La Quinta • Palm Desert
Palm Springs • Rancho Mirage • County of Riverside • Coachella Valley Water District • Imperial Irrigation District

Request for Disbursement of RCTD Funds

May 19, 2015

Marcia Frances Rose, M.S., PMP
Senior Transportation Planner
Riverside County Transportation Department- Environmental Division
Riverside County - Transportation and Land Management Agency
3525 14th Street
Riverside, CA 92501

Dear Ms. Rose:

RE: Request for Funds for Riverside County Transportation Department (RCTD) Seminole Drive Extension Project

This is to serve as a request for the deposit of RCTD funds into the Coachella Valley Conservation Commission (CVCC)'s escrow account in connection with the subject acquisition project.

The United States Fish and Wildlife Service (USFWS) determined that due to the disturbance on the reservation of the Morongo Band of Mission Indians created by the Seminole Drive Extension Project, there will be an adverse impact to the desert tortoise habitat; and therefore, per the December 2, 2014 Informal Section 7 Consultation Request for the Seminole Drive Extension Project, the USFWS is requiring mitigation that includes the conservation of specific desert tortoise habitat in an area known as Upper Mission Creek. As Indian reservations are not a part of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), USFWS has required that RCTD provide funds to the CVCC for the acquisition of suitable desert tortoise habitat within an appropriate CVMSHCP Conservation Plan Area at a 2:1 ratio for permanent impacts to desert tortoise habitat and a conservation instrument acceptable to the CVCC to be restored. RCTD has requested that the CVCC act as its agent to complete the land conservation/acquisition and have CVCC take title to APN 671-170-010, a 17.5 acre parcel located in Upper Mission Creek along Hwy 62 to satisfy this mitigation requirement. At the February 12, 2015, meeting of the CVCC, the CVCC executive director was authorized to sign any documents necessary for CVCC to purchase and take title to property required for mitigation of the Seminole Drive Extension with acquisition, appraisal, endowment and transaction costs paid by the RCTD.

RCTD has agreed to pay costs including property purchase funds to be deposited directly into escrow on behalf of the CVCC. Closing costs, real estate fees and an endowment fund for perpetual management and monitoring will be invoiced by CVCC and paid for by RCTD separately upon close of escrow.

Name and Address of Property Buyer: Coachella Valley Conservation Commission
73-710 Fred Waring Dr., Suite 200
Palm Desert, CA 92260

Property disbursement amount: \$80,000.00

Funds will be disbursed: (NLT 72 hrs prior to projected close date 07/15/2015)

Payable to:

FIRST AMERICAN TITLE COMPANY

On Behalf of the Coachella Valley Conservation Commission

ATTN: Escrow Officer: Kelly Collier

BANK: FIRST AMERICAN TRUST, FSB

ADDRESS: 5 FIRST AMERICAN WAY, SANTA ANA, CA 92707

ABA: 122241255

ACCOUNT NO: 3119580000

PLEASE REFERENCE CUSTOMER NAME: COACHELLA VALLEY CONSERVATION COMMISSION

ESCROW FILE NUMBER: RIW 4902602

Kelly Collier's Contact Numbers:

Tel: 760-469-8891

EFax: 866-371-1073

If you have any questions with respect to this request, please contact Kerrie Godfrey at (760) 776-5026.

Very truly yours,


Tom Kirk
Executive Director



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262



In Reply Refer To:
FWS-ERIV-15B0065-1510076

DEC - 2 2014

Mr. John Rydzik
Division Chief of Environmental Cultural Resources Management and Safety
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way, Room W-2619
Sacramento, CA 95825

Subject: Informal Section 7 Consultation Request for Seminole Drive Extension Project,
Riverside County, California

Dear Mr. Rydzik:

This document is in response to your correspondence dated October 15, 2014, requesting our concurrence with your determination that the proposed Seminole Drive Extension Project (Project) within the Front Country Ranger District of the San Bernardino National Forest (Forest) is not likely to adversely affect the federally threatened Mojave population of the desert tortoise (*Gopherus agassizii*), in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*).

The Project, proposed by the County of Riverside Transportation Department (RCTD), will result in the construction of an alternate emergency access route between the City of Cabazon and the unincorporated community of Whitewater within the San Gorgonio Pass, Riverside County, California. This area currently consists of two service routes; Interstate 10 (I-10) and Railroad Avenue, a frontage road along the southern boundary of I-10. The community of Whitewater experiences periodic limitations in service, due to traffic congestion from major construction and/or accidents on I-10. This increases response time of emergency support services such as fire, police, and/or medical services.

To provide a prompt response for the community, RCTD proposes to extend Seminole Drive, from where it currently terminates on the Morongo Band of Mission Indian lands, to the intersection of Rushmore Avenue and Kimdale Drive, in the community of Whitewater. The extension will traverse existing tribal land, is approximately one mile in length, and consists of two 14-foot wide lanes, with unimproved graded shoulders extending 8-feet from the pavement edge. The proposed Project will result in permanent impacts to 8.1 acres of lightly disturbed Sonoran creosote bush scrub. Additionally, the Project area does low levels of vehicle disturbance, as shown on aerial photographs. Therefore, some level of vegetative degradation currently exists at the Project location.

Conservation measures to avoid or minimize impacts to desert tortoise have been developed and included within both the Project's environmental assessment and request for initiation documentation. These include:

1. Prior to implementation of the Project, a sensitive resource education program will be presented to all personnel who will be on site, including surveyors, construction engineers, employees, contractors, supervisors, inspectors, and all visitors. The program will include briefing sessions and handouts;
2. A U.S. Fish and Wildlife Service – Palm Springs Office (PSFWO) authorized biologist shall conduct focused surveys within the Project area 24 hours prior to the onset of construction related activities. Should desert tortoise(s) be located within the Project area, the biologist will halt all Project activities and immediately contact the RCTD and PSFWO to initiate section 7 consultation;
3. The authorized biologist must be on site for the duration of the work/activities. Prior to the onset of work each day, the biologist(s) will survey the work site for desert tortoises/sign. If desert tortoises are located, the biologist will halt all Project activities and immediately contact the RCTD and PSFWO to initiate section 7 consultation;
4. A maximum speed limit of 35 miles per hour (mph) will limit vehicle speeds to allow for adequate driver reaction time should desert tortoise be on the roadway;
5. Speed humps will be incorporated into the final design to ensure low vehicle speed;
6. Funds will be provided to the Coachella Valley Conservation Commission (CVCC) for the acquisition of suitable desert tortoise habitat within an appropriate Coachella Valley Multiple Species Habitat Conservation Plan Conservation Area at a 2:1 ratio for permanent impacts to desert tortoise habitat, and a conservation instrument acceptable to the CVCC will be recorded for the acquired acres;
7. Project limits will be marked with high visibility Environmentally Sensitive Area fencing, staking, or flagging to ensure construction will not extend outside the proposed area of disturbance;
8. The Project contractor will dispose of all food-related trash in closed containers and remove it from the Project area each day during the construction period. Construction personnel will not feed or other attract wildlife to the Project area;
9. The Project contractor will not apply rodenticides or herbicides within the Project area during construction activities;
10. Construction activities will be limited to daylight hours when possible and night-lighting will not be added to the new extension;

11. Project personnel will carefully check under parked vehicles and equipment, before moving, for desert tortoise(s). Should desert tortoise(s) be found, the biologist will halt all Project activities and immediately contact the RCTD and PSFWO to initiate section 7 consultation;
12. Construction and maintenance vehicles will not exceed 25 mph within the Project area;
13. Open trenches, auger holes, or other excavations that may act as pitfall traps will be inspected prior to working in or around the excavation and prior to filling. Other excavations that remain open overnight will be covered. Any animals found within these excavations will be removed and relocated. Should any listed or sensitive species be found within these excavations, the appropriate wildlife agency will be contacted immediately; and
14. Should a desert tortoise be injured or killed as a result of Project related activities, or found dead during construction, remains will be collected and frozen as soon as possible. The RCTD and PSFWO will be notified immediately and a written report submitted sent within 5 calendar days of the incident. The report will include the date, time, location, and circumstances of the incident.

During implementation of the Project, temporary negative effects to desert tortoise habitat in the Project area may occur. Temporary negative effects include presence of crews in the Project areas, which may disturb desert tortoise that forage or den near the Project location; and noise and vibration impacts from vehicular and road repair equipment. However, temporary disturbance impacts are expected to be low in intensity and short-term in duration with construction expected to last 3 months.

Permanent impacts to potential desert tortoise habitat as a result of Project implementation are not considered substantial as: (1) construction activities are expected to last for a short period of time within the construction area; (2) the implementation of the conservation measures described above, including the requirement for lower vehicle speed limits to reduce the potential for desert tortoise mortality; and (3) the road will be at grade, and therefore not present a barrier to desert tortoise movement.

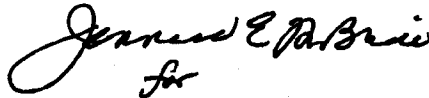
Modeled habitat does exist for desert tortoise at this Project location and surveys conducted by Southern California Edison, from 2011 to 2013, revealed the presence of desert tortoise burrows approximately 2000 feet away from the planned road extension. While this habitat has been classified as suitable, desert tortoise surveys were conducted in April 2014 with negative desert tortoise or tortoise diagnostic indicators.

As stated in the conservation measures, should desert tortoise be observed during pre-construction surveys or while operations are in progress, activities will immediately cease and your agency must contact the PSFWO to initiate formal consultation under section 7 of the Act.

Based on the proposed Project description and implementation of the avoidance and minimization measures included in the biological assessment, we concur with your determination that the proposed Project is not likely to adversely affect the desert tortoise. The interagency consultation requirements of section 7 of the Act have been satisfied. Although our concurrence ends informal consultation, obligations under section 7 of the Act will be reconsidered if new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered, or this action is subsequently modified in a manner that was not considered in this assessment.

Thank you for your coordination on this Project. If you have any questions regarding this letter, please contact John M. Taylor of this office at 760-322-2070, extension 218.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kennon A. Corey".

for
Kennon A. Corey
Assistant Field Supervisor

cc:

Jim Sullivan, CVCC
Marcia Frances Rose, RCTD
Russell Williams, RCTD

Rose, Marcia Frances

From: Taylor, John <john_m_taylor@fws.gov>
Sent: Thursday, March 12, 2015 1:28 PM
To: John Rydzik; Rose, Marcia Frances; Williams, Russell
Cc: Sarah E. Holm; Jim Sullivan; Jenness McBride
Subject: Seminole Drive Extension - Amendment to informal consultation

In reply, please refer to: FWS-ERIV-15B0065-15I0076-R001

Mr. Rydzik,

On December 2, 2014, the U.S. Fish and Wildlife Service Palm Springs Office (Service) issued a concurrence letter for the Seminole Drive Extension Project (Project) (FWS-ERIV-15B0065-15I0076) and its potential impact to the federally threatened Mojave population of the desert tortoise (*Gopherus agassizii*). Subsequent discussions held internally by the non-federal applicant, the County of Riverside Transportation Department (RCTD), revealed the incorporation of conservation measure 5 was unable to be implemented due to RCTD engineering staff anticipating an increased potential for accidents due to the installation of speed humps.

On January 8, 2015, at the Morongo Band of Mission Indians conference facility in Cabazon, California, the Bureau of Indian Affairs (BIA), RCTD and their designated representatives, the Service, the Coachella Valley Association of Governments (CVAG), and tribal staff met to discuss alternative options to the conservation measures as issued. The purpose and intent of the speed humps and 35 mph speed limit was to ensure vehicles maintain an appropriate speed, thereby ensuring adequate reaction time should a desert tortoise occur within the roadway. As an alternative, the group discussed installation of a permanent desert tortoise fence be installed along the northern side of the facility for the length of the Project.

On January 13, 2015, the Service received an email from RCTD indicating that the above changes were approved internally

and were agreed to by the BIA and Service. In addition, per conservation measure 6 as provided in the Service's concurrence letter, RCTD has agreed to purchase tortoise mitigation land at a 2:1 ratio. The group will work with CVAG on the appraisal and acquisition process. Prior to construction, the RCTD and the Coachella Valley Conservation Commission (CVCC) will sign a Memorandum of Agreement outlining the roles and responsibilities of the RCTD and CVCC, including assurance mechanisms (e.g., performance bonds or escrow accounts to assure adequate funding) if habitat cannot be acquired prior to ground disturbing activities.

Based on the above discussion,

- 1)
a 35 mph speed limit
outlined in conservation measure 4, is hereby removed, and 2)
speed humps

as noted in
conservation measure 5
as issued in our consultation,
is

hereby replaced with the following language:

RCTD will install and maintain permanent desert tortoise fencing along the

entire

northern length of the proposed facility, beginning from the current terminus of on the Morongo Band of Mission Indian lands, to the intersection of Rushmore Avenue and Kimdale Drive, in the community of Whitewater.

Fence installation will follow the most current Service fencing guidelines for desert tortoise.

Conservation measure 6 is also amended as follows:

Funds will be provided to the Coachella Valley Conservation Commission (CVCC) for the acquisition of suitable desert tortoise habitat, as determined by the Service, within the Coachella Valley Multiple Species Habitat Conservation Plan Area at a 2:1 ratio for permanent impacts to desert tortoise habitat, and a conservation instrument acceptable to the CVCC will be recorded for the acquired acres. Prior to construction, the RCTD and the Coachella Valley Conservation Commission (CVCC) will sign a Memorandum of Agreement outlining the roles and responsibilities of the RCTD and CVCC, including assurance mechanisms (e.g., performance bonds or escrow accounts to assure adequate funding) if habitat cannot be acquired prior to ground disturbing activities.

This correspondence will be printed and included as part of the project record. Thank you for your coordination on this Project. If you have any questions regarding this letter, please contact me at any time.

Sincerely,

John M. Taylor
Fish & Wildlife Biologist
U.S. Fish and Wildlife Service - Palm Springs
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, CA 92262
Ph: 760-322-2070 x218
john_m_taylor@fws.gov

Rose, Marcia Frances

From: McBride, Jenness <jenness_mcbride@fws.gov>
Sent: Thursday, March 26, 2015 11:26 AM
To: Jim Sullivan
Cc: Rose, Marcia Frances; John Taylor; Katie Barrows; Kerrie Godfrey (kgodfrey@cvmc.ca.gov); Jim R. Karpiak (jkarpiak@cvmc.ca.gov)
Subject: Re: Seminole Drive Extension Mitigation

Hi Jim,

The answer to each of your three questions is yes. Thank you for helping us realize the conservation acquisition. Best regards,
Jenness

Jenness McBride
Chief, Coachella and Imperial Valleys Division
U.S. Fish and Wildlife Service
Palm Springs Fish and Wildlife Office
777 East Tahquitz Canyon Way, Suite 208
Palm Springs, California 92262
760-322-2070, ext. 203

On Thu, Mar 26, 2015 at 11:22 AM, Jim Sullivan <jsullivan@cvag.org> wrote:

Hi Jenness,

I have been discussing the Seminole Drive Extension Mitigation with the County and they wish to receive assurances from FWS that:

- 1) either APN 671170010 or 671170011 is acceptable and;
- 2) our standard Restrictive Covenant (attached) is an acceptable legal instrument for conservation.

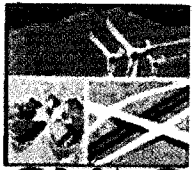
The County may be interested in completing their mitigation as quickly and seamlessly as possible. Since no one can guarantee that purchase of either of these parcels will be possible, this entire process could continue until acquisition of land acceptable to FWS is accomplished. The County may wish to avoid such a potentially lengthy process. CVCC could estimate the cost of acquisition and conservation and have the County deposit the funds into an escrow account and have escrow instructions that FWS need to approve any purchase as meeting requirements of the Seminole Dr. mitigation.

- 3) Would FWS accept the County's deposit into such an escrow account as fulfillment of their obligation? That way if neither of the parcels work out, CVCC could continue to work with FWS on this mitigation without further involvement of the County.

If you could respond to all with your reply to those 3 questions, I would appreciate it.

Thank you,

Jim



Jim Sullivan AICP
GIS Program Director
Coachella Valley Association of Governments
760-346-1127

CVAG



COUNTY OF RIVERSIDE
TRANSPORTATION AND
LAND MANAGEMENT AGENCY



Juan C. Perez, P.E., T.E.
 Director of Transportation and
 Land Management

Transportation Department

Patricia Romo, P.E.
 Assistant Director of Transportation

NOTICE OF EXEMPTION

September 1, 2015

PROJECT TITLE: (W.O. # ZC30073 Task Code #Z1530)

PROJECT SPONSOR: Riverside County Transportation Department

Original Negative Declaration/Notice of
 Determination was routed to County
 Clerks for posting on.

PROJECT LOCATION: Unincorporated Riverside County

9/17/15
 Date

PR
 Initial

SUPERVISORIAL DISTRICT: Supervisorial District 5

PROJECT DESCRIPTION: The County proposes to construct the Seminole Drive Extension Project ("Project") which will extend the existing Seminole Drive from where it currently dead ends to the intersection of Rushmore Avenue and to Kimdale Drive. The new extension would be approximately one mile long and allow for an emergency access road off Interstate 10 (I-10), which is currently congested and requires alternate emergency access facilities. The Project is located in the County on land owned by the Morongo Band of Mission Indians. The United States Fish and Wildlife Service (USFWS) determined that, due to the disturbance on Morongo Band of Mission Indians tribal lands created by the Project, there will be an adverse impact to approximately 8 acres of desert tortoise habitat. Therefore, per Conservation Measure 6 of the December 2, 2014, Informal Section 7 Consultation Request for the Project, USFWS has required that the County provide funds to the CVCC for the acquisition of suitable desert tortoise habitat within an appropriate Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) Conservation Area at a 2:1 ratio for permanent impacts to desert tortoise habitat and a conservation instrument acceptable to the CVCC to be recorded for the acquired acres. Conservation Measure 6 further required the County and the CVCC to enter into a MOA outlining the roles and responsibilities of the County and CVCC, including assurance mechanisms (e.g., performance bonds or escrow accounts to assure adequate funding) if habitat cannot be acquired prior to the Project's ground disturbing activities. Consistent with the conservation measure, the Transportation Department has requested that the CVCC act as the County's agent to complete the land conservation/acquisition and have CVCC take title to Assessor Parcel Number (APN) 671-170-010, a 17.5 acre parcel located in upper Mission Creek along Highway 62, to satisfy this mitigation. USFWS has determined that APN 671-170-010 will satisfy the mitigation requirement set forth in Conservation Measure 6. The attached MOA outlines the requirements of USFWS Conservation Measure 6. The MOA with CVCC is exempt from CEQA per CEQA Guidelines section 15325, Class 25, because the MOA involves the acquisition, sale or other transfer of areas to preserve the existing natural conditions, including plant or animal habitats. Under the terms of the MOA, the County is distributing funds to CVCC for the acquisition of suitable land to be preserved as desert tortoise habitat

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required. All improvements are to be constructed within the same footprint of the existing road. The Riverside County Transportation Department Staff conducted a review of the above referenced project and has determined that the proposals qualify for a Categorical Exemption per the California Environmental Quality Act (CEQA) Guidelines. **The Riverside County Transportation Department has found that the above-described project is exempt from the provisions of the California Environmental Quality Act (CEQA), based on the following: California Environmental Quality Act Guidelines, section 15325 (c), Class 25.**

Presented By: Marcia Frances Rose, Senior Transportation Planner

Signed: 
Russell Williams, Environmental Division Manager