

**MINUTE ORDER  
OF  
IMPERIAL COUNTY  
BOARD OF SUPERVISORS**

<b>Date:</b> November 25, 2003	<b>Book:</b> 329	<b>Page:</b> 452	<b>File #:</b> 300.38	<b>M.O.#:</b> 11
<b>X-File 1:</b>	<b>X-File 2:</b>	<b>X-File 3:</b>	<b>X-File 4:</b>	
<b>Department:</b> BOARD OF SUPERVISORS		<b>2nd Page:</b>		

THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, on a motion by Supervisor : WYATT , second by Supervisor : CARRILLO and approved by the following roll call vote;

**AYES :** CARRILLO, KUIPER, MARUCA, WYATT

**NAYES :** NONE

**ABSTAINED :** NONE

**EXCUSED OR ABSENT :** LEIMGRUBER  
**IN REFERENCE TO :**

Approved Memorandum of Understanding with Torres Martinez Desert Cahuilla Indian Tribe.

<b>Topic:</b> MOU	<b>X-Topic:</b> Torres Martinez Desert Cahuilla Indian Tribe
<b>CC:</b> <input checked="" type="checkbox"/> File <input checked="" type="checkbox"/> Auditor <input type="checkbox"/> County Counsel <input type="checkbox"/> ICCED <input type="checkbox"/> Sheriff-Coroner <input type="checkbox"/> Ag/APCD <input type="checkbox"/> Behavioral Health <input type="checkbox"/> County Property <input type="checkbox"/> Planning <input type="checkbox"/> Social Services <input type="checkbox"/> Assessors <input checked="" type="checkbox"/> CEO <input type="checkbox"/> Health <input type="checkbox"/> Public Works <input type="checkbox"/> Other...	

## MEMORANDUM OF UNDERSTANDING

The Torres Martinez Desert Cahuilla Indians, a federally-recognized Indian tribe, (hereinafter referred to as "Tribe") enters into this Memorandum of Understanding (hereinafter referred to as "MOU") with Imperial County, California (hereinafter referred to as "County") to confirm the inter-governmental understanding of the Tribe and County (hereinafter "Parties") regarding certain issues associated with the Tribe's development within the Torres Martinez Indian Reservation ("Reservation"), which is known as the Torres Martinez Travel Center (hereinafter referred to as "TMTC" or "Project").

### RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe which occupies a federal Indian Reservation within the geographic boundaries of the County; and

WHEREAS, under federal law, the Tribe may engage in development of its lands as a means of raising tribal revenues and achieving self-sufficiency; and

WHEREAS, the Tribe is pursuing the development of the TMTC on 20 acres located at Section 34, Township 9 South (T9S), Range 9 East (R9E), San Bernardino Base and Meridian, Imperial County, California (hereinafter referred to as "Project's Location"); and

WHEREAS, the TMTC will include a convenience store, gas & diesel pumping stations, parking and a truck weigh station; and

WHEREAS, without the Project, economic benefits would be unavailable to the Tribe or its members, and, accordingly, the Tribe has determined that it is in the best interest of the Tribe and its members to create and operate the TMTC on its Reservation to allow the Tribe to reach its economic needs and goals; and

WHEREAS, the Tribe desires to operate the TMTC in a manner that benefits the Tribe, its members and the community as a whole, and the County recognizes the mutual benefit that can be derived if that goal is achieved; and

WHEREAS, the Tribe and the County have participated in a series of joint meetings on July 9, 2003, July 23, 2003, and October 10, 2003 to discuss impacts, including, but not limited to, police and fire protection and

emergency services and appropriate mitigation related to the Project, consistent with the Tribe's sovereignty; and

WHEREAS, the Parties acknowledge that given the scope of the Project the specific impacts are not subject to precise measurement and that the measures agreed upon below are intended as good faith approximate mitigation of identified impacts; and

WHEREAS, the proposed action of the Tribe is not a County project and is not subject to the discretionary approval of the County; and

WHEREAS, the Parties recognize that the County's cooperation, facilitation and good will are important components in maximizing the success of the Project; and

WHEREAS, the Parties recognize and acknowledge that this MOU is an important step in furthering a relationship founded on trust, mutual respect and cooperation that is intended to benefit the Tribe and entire Imperial County community; and

WHEREAS, this MOU embodies the concepts and understandings developed by the Tribe and the County to date and is intended to memorialize those understandings that may lead to legally binding agreements between the Parties to address specific obligations that may be created, so that the Project may better serve the mutual interests of the Tribe and the County;

NOW, THEREFORE, the Parties understand the following:

#### **UNDERSTANDING**

1. This MOU addresses certain development and impact issues concerning the Tribe's pursuit of the development of the TMTC on 20 acres located at the Project's Location on the Reservation.
2. This MOU does not address any other development in the 640 acres at the Project's Location. The Tribe acknowledges that illustrative master plans indicate proposed developments such as a casino, hotel, RV park, fast food pads, light retail. These proposed developments are future visions of the Tribe and will require future due diligence.
3. The Tribe is planning to commence construction of the TMTC in Fall of this year 2003 in order to meet the projected Spring 2004 opening date.
4. The 20 acre parcel is being leased by the Tribe (hereinafter referred to as "Land Lease") to its designated development entity for the Project

Location, Selnek-is Tem-AI Corporation (hereinafter referred to as "Corporation").

5. The TMTC is being financed by Canyon National Bank in Palm Springs. The Bureau of Indian Affairs (hereinafter referred to as "BIA") is guaranteeing a portion of the loan. The BIA must approve both the Land Lease and the bank loan for the TMTC. The BIA will comply with the National Environmental Policy Act (hereinafter referred to as "NEPA") during its Environmental Assessment due diligence.
6. The County has no jurisdiction over development of the TMTC, since the Project Location is on sovereign Reservation property.
7. The Tribe has identified the following infrastructure improvements required for the TMTC:
  - a) California Department of Transportation ("CalTrans") – the Corporation and its design team has been processing an encroachment permit application in order to provide the improvements associated with an interchange in the CalTrans right of way just north of the Project's Location. Discussions were commenced with CalTrans since late 2002. This interchange will provide vehicular access to the TMTC. The Tribe would like the assistance of the County in transferring title of the improved right-of-way from CalTrans to the BIA.
  - b) Imperial Irrigation District ("IID") for Electrical Service – Application for service complete with engineering deposit fees were submitted in late spring 2003. Discussions were commenced with IID since mid 2002.
  - c) Coachella Valley Water District ("CVWD") – Application for water service and meters complete with deposit fees were submitted in May of 2003. Discussions were commenced with CVWD since late 2002.
  - d) Waste Water – This will be a private infrastructure improvement, with all design, construction and operation in accordance with EPA and other Federal guidelines.

- e) Storm Drainage –
  - 1. The storm drain run-off as it approaches the 20 acre site will be diverted via earthen storm drain channels and eventually redirected to its original path.
  - 2. The storm drain run-off associated with the TMTC will be directed towards on-site retention basins, to be dissipated at the same rate prior to improvements associated with the TMTC.
  
- 8. The Tribe desires to develop the TMTC in cooperation with the County and will take all reasonable measures to ensure public safety and welfare, including:
  - a) All building design and construction will be provided in accordance with the latest adopted Uniform Building Code.
  - b) The Tribe will adopt standards as stringent as the Imperial County's design data with regard to wind exposure factor and seismic zone.
  - c) A licensed geotechnical engineer has been retained to provide a Master Geological study. The study contains design criteria for civil and structural design that will be adhered to by the TMTC design team.
  - d) All building designers will be licensed architects and engineers in the State of California. Final design documents will include the wet stamp and signature of the responsible professional.
  - e) All building, site and petroleum equipment design will be processed through the Tribe's Public Works department. A third party plan check entity will be providing plan check review. Upon completion of plan check review, the Tribes' Public Works director will issue a building permit for the TMTC.
  - f) Building and site inspection services will be provided by an independent firm, with trained and certified inspectors on-site. These inspection services will include life safety, structural, plumbing, mechanical, fire, electrical, civil and disabled access.
  - g) Geotechnical and special inspectors for identified structural items will be retained by the Corporation as required by the approved design documents.

- h) Upon written request, copies of the following will be forwarded to the Imperial County Building Department and the Fire Marshall for their record:
  - 1. Initial design documents submitted to the Tribe's Public Works department for plan check.
  - 2. Final design documents approved by the Tribe's Public Works department after review and comments by the third party plan check entity.
  - 3. Inspection reports.
  - 4. Certificate of Completion.
- i) From time to time, the Tribe may invite the Imperial County's Building Department and Fire Marshall to observe the construction of both site and building improvements
- 9. The Tribe will only hire California licensed contractors to provide the TMTC improvements. All general contractors and sub-contractors must be pre-qualified and bondable. In the case of the fire water supply, fire hydrant installation and fire sprinkler installation, the Imperial County Fire Marshall will assist the Tribe in locating a third party consultant to assist in both the inspection and testing of those systems.
- 10. The Tribe desires to accommodate environmental mitigation in the construction and operation of the TMTC.
- 11. The Tribe understands that State of California sales tax will be collected from non-Native American customers on applicable petroleum and convenience store sales.
- 12. Both the Tribe and the County acknowledge the following:
  - a) In order to provide adequate law enforcement services to the TMTC, the Tribe intends to contribute to the costs for Imperial County Sheriff's office. The Tribe and the Imperial County's Sheriff's Office will enter into a separate Memorandum of Agreement with regard to specific law enforcement actions at the Project's Location and the Tribe's contribution to the Sheriff's office.

- b) Environmental documentation, including Traffic, Noise and Air Studies, will be provided for the TMTTC. Specific mitigation measures will be identified and implemented for this Project
- c) The costs associated with the design and construction of the CalTrans intersection will be borne by the Tribe and Corporation.
- d) Fire protection services will be provided by the Salton Sea Beach Volunteer Fire Department. A separate Memorandum of Agreement will be entered between the Tribe and the Fire Department for fire protection services and the Tribe's contribution to the Department.

**Therefore**, the undersigned acknowledge the contents of this Memorandum of Understanding herein.

\_\_\_\_\_  
Raymond Torres – Chairman,  
Torres Martinez Desert Cahuilla Indians  
for the Torres Martinez Desert Cahuilla Indians

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joe Maruca– Chairman  
Imperial County Board of Supervisors  
for Imperial County, California

\_\_\_\_\_  
Date

# 772578\_v5

11-25-03  
# 11

## MEMORANDUM OF UNDERSTANDING

The Torres Martinez Desert Cahuilla Indians, a federally-recognized Indian tribe, (hereinafter referred to as "Tribe") enters into this Memorandum of Understanding (hereinafter referred to as "MOU") with Imperial County, California (hereinafter referred to as "County") to confirm the inter-governmental understanding of the Tribe and County (hereinafter "Parties") regarding certain issues associated with the Tribe's development within the Torres Martinez Indian Reservation ("Reservation"), which is known as the Torres Martinez Travel Center (hereinafter referred to as "TMTC" or "Project").

### RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe which occupies a federal Indian Reservation within the geographic boundaries of the County; and

WHEREAS, under federal law, the Tribe may engage in development of its lands as a means of raising tribal revenues and achieving self-sufficiency; and

WHEREAS, the Tribe is pursuing the development of the TMTC on 20 acres located at Section 34, Township 9 South (T9S), Range 9 East (R9E), San Bernardino Base and Meridian, Imperial County, California (hereinafter referred to as "Project's Location"); and

WHEREAS, the TMTC will include a convenience store, gas & diesel pumping stations, parking and a truck weigh station; and

WHEREAS, without the Project, economic benefits would be unavailable to the Tribe or its members, and, accordingly, the Tribe has determined that it is in the best interest of the Tribe and its members to create and operate the TMTC on its Reservation to allow the Tribe to reach its economic needs and goals; and

WHEREAS, the Tribe desires to operate the TMTC in a manner that benefits the Tribe, its members and the community as a whole, and the County recognizes the mutual benefit that can be derived if that goal is achieved; and

WHEREAS, the Tribe and the County have participated in a series of joint meetings on July 9, 2003, July 23, 2003, and October 10, 2003 to discuss impacts, including, but not limited to, police and fire protection and emergency services and appropriate mitigation related to the Project, consistent with the Tribe's sovereignty; and



WHEREAS, the Parties acknowledge that given the scope of the Project the specific impacts are not subject to precise measurement and that the measures agreed upon below are intended as good faith approximate mitigation of identified impacts; and

WHEREAS, the proposed action of the Tribe is not a County project and is not subject to the discretionary approval of the County; and

WHEREAS, the Parties recognize that the County's cooperation, facilitation and good will are important components in maximizing the success of the Project; and

WHEREAS, the Parties recognize and acknowledge that this MOU is an important step in furthering a relationship founded on trust, mutual respect and cooperation that is intended to benefit the Tribe and entire Imperial County community; and

WHEREAS, this MOU embodies the concepts and understandings developed by the Tribe and the County to date and is intended to memorialize those understandings that may lead to legally binding agreements between the Parties to address specific obligations that may be created, so that the Project may better serve the mutual interests of the Tribe and the County;

NOW, THEREFORE, the Parties understand the following:

#### UNDERSTANDING

1. This MOU addresses certain development and impact issues concerning the Tribe's pursuit of the development of the TMTC on 20 acres located at the Project's Location on the Reservation.
2. This MOU does not address any other development in the 640 acres at the Project's Location. The Tribe acknowledges that illustrative master plans indicate proposed developments such as a casino, hotel, RV park, fast food pads, light retail. These proposed developments are future visions of the Tribe and will require future due diligence.
3. The Tribe is planning to commence construction of the TMTC in Fall of this year 2003 in order to meet the projected Spring 2004 opening date.
4. The 20 acre parcel is being leased by the Tribe (hereinafter referred to as "Land Lease") to its designated development entity for the Project Location, Selnek-is Tem-Al Corporation (hereinafter referred to as "Corporation").

5. The TMTC is being financed by Canyon National Bank in Palm Springs. The Bureau of Indian Affairs (hereinafter referred to as "BIA") is guaranteeing a portion of the loan. The BIA must approve both the Land Lease and the bank loan for the TMTC. The BIA will comply with the National Environmental Policy Act (hereinafter referred to as "NEPA") during its Environmental Assessment due diligence.
6. The County has no jurisdiction over development of the TMTC, since the Project Location is on sovereign Reservation property.
7. The Tribe has identified the following infrastructure improvements required for the TMTC:
  - a) California Department of Transportation ("CalTrans") – the Corporation and its design team has been processing an encroachment permit application in order to provide the improvements associated with an interchange in the CalTrans right of way just north of the Project's Location. Discussions were commenced with CalTrans since late 2002. This interchange will provide vehicular access to the TMTC. The Tribe would like the assistance of the County in transferring title of the improved right-of-way from CalTrans to the BIA.
  - b) Imperial Irrigation District ("IID") for Electrical Service – Application for service complete with engineering deposit fees were submitted in late spring 2003. Discussions were commenced with IID since mid 2002.
  - c) Coachella Valley Water District ("CVWD") – Application for water service and meters complete with deposit fees were submitted in May of 2003. Discussions were commenced with CVWD since late 2002.
  - d) Waste Water – This will be a private infrastructure improvement, with all design, construction and operation in accordance with EPA and other Federal guidelines.
  - e) Storm Drainage –
    1. The storm drain run-off as it approaches the 20 acre site will be diverted via earthen storm drain channels and eventually redirected to its original path.
    2. The storm drain run-off associated with the TMTC will be directed towards on-site retention basins, to be dissipated

at the same rate prior to improvements associated with the TMTC.

8. The Tribe desires to develop the TMTC in cooperation with the County and will take all reasonable measures to ensure public safety and welfare, including:

- a) All building design and construction will be provided in accordance with the latest adopted Uniform Building Code.
- b) The Tribe will adopt standards as stringent as the Imperial County's design data with regard to wind exposure factor and seismic zone.
- c) A licensed geotechnical engineer has been retained to provide a Master Geological study. The study contains design criteria for civil and structural design that will be adhered to by the TMTC design team.
- d) All building designers will be licensed architects and engineers in the State of California. Final design documents will include the wet stamp and signature of the responsible professional.
- e) All building, site and petroleum equipment design will be processed through the Tribe's Public Works department. A third party plan check entity will be providing plan check review. Upon completion of plan check review, the Tribes' Public Works director will issue a building permit for the TMTC.
- f) Building and site inspection services will be provided by an independent firm, with trained and certified inspectors on-site. These inspection services will include life safety, structural, plumbing, mechanical, fire, electrical, civil and disabled access.
- g) Geotechnical and special inspectors for identified structural items will be retained by the Corporation as required by the approved design documents.
- h) Upon written request, copies of the following will be forwarded to the Imperial County Building Department and the Fire Marshall for their record:
  1. Initial design documents submitted to the Tribe's Public Works department for plan check.

2. Final design documents approved by the Tribe's Public Works department after review and comments by the third party plan check entity.
  3. Inspection reports.
  4. Certificate of Completion.
- i) From time to time, the Tribe may invite the Imperial County's Building Department and Fire Marshall to observe the construction of both site and building improvements
9. The Tribe will only hire California licensed contractors to provide the TMTC improvements. All general contractors and sub-contractors must be pre-qualified and bondable. In the case of the fire water supply, fire hydrant installation and fire sprinkler installation, the Imperial County Fire Marshall will assist the Tribe in locating a third party consultant to assist in both the inspection and testing of those systems.
  10. The Tribe desires to accommodate environmental mitigation in the construction and operation of the TMTC.
  11. The Tribe understands that State of California sales tax will be collected from non-Native American customers on applicable petroleum and convenience store sales.
  12. Both the Tribe and the County acknowledge the following:
    - a) In order to provide adequate law enforcement services to the TMTC, the Tribe intends to contribute to the costs for Imperial County Sheriff's office. The Tribe and the Imperial County's Sheriff's Office will enter into a separate Memorandum of Agreement with regard to specific law enforcement actions at the Project's Location and the Tribe's contribution to the Sheriff's office.
    - b) Environmental documentation, including Traffic, Noise and Air Studies, will be provided for the TMTC. Specific mitigation measures will be identified and implemented for this Project
    - c) The costs associated with the design and construction of the CalTrans intersection will be borne by the Tribe and Corporation.

- d) Fire protection services will be provided by the Salton Sea Beach Volunteer Fire Department. A separate Memorandum of Agreement will be entered between the Tribe and the Fire Department for fire protection services and the Tribe's contribution to the Department.


Therefore, the undersigned acknowledge the contents of this Memorandum of Understanding herein.



Raymond Torres – Chairman,  
Torres Martinez Desert Cahuilla Indians  
for the Torres Martinez Desert Cahuilla Indians

01-16-04

Date



Joe Maruca – Chairman  
Imperial County Board of Supervisors  
for Imperial County, California

01-26-04

Date

# HOLLAND & KNIGHT LLP

633 West Fifth Street  
Twenty-First Floor  
Los Angeles, California 90071-2040

213-896-2400  
FAX 213-896-2450  
www.hklaw.com

Annapolis	San Francisco
Atlanta	Seattle
Bethesda	Tallahassee
Boston	Tampa
Bradenton	Washington, D.C.
Chicago*	West Palm Beach
Fort Lauderdale	
Jacksonville	International Offices:
Lakeland	Caracas**
Los Angeles	Helsinki
Miami	Mexico City
New York	Rio de Janeiro
Northern Virginia	São Paulo
Orlando	Tel Aviv**
Portland	Tokyo
Providence	
St. Petersburg	*Holland & Knight LLC
San Antonio	**Representative Office

January 22, 2004

**JAMES K. KAWAHARA**  
213-896-2412  
jkawahara@hklaw.com

## VIA UPS

Ralph Cordova, Deputy County Counsel  
Office of County Counsel  
Imperial County  
940 West Main Street, Suite 205  
El Centro, CA 92243

Re: Travel Center Memorandum of Understanding

Dear Mr. Cordova:

I am enclosing two original, signed copies of the Memorandum of Understanding "MOU" between Imperial County and the Torres Martinez Desert Cahuilla Indians. The MOU is executed by Raymond Torres on behalf of the Tribe.

Please send the Tribe's original copy once you have obtained the signature of the appropriate County official. I have enclosed a UPS next day air return label and envelope for your convenience. Thank you for your continued cooperation and assistance in this process.

I look forward to meeting with you on February 2, 2004.

Very truly yours,

HOLLAND & KNIGHT LLP

  
James K. Kawahara

JKK:vvv  
Enclosure