

CONSTITUTION OF THE TORRES MARTINEZ DESERT CAHUILLA INDIANS, TORRES MARTINEZ RESERVATION, CALIFORNIA

Adopted November 9, 1997; Amended November 20, 2004 (Articles XXIV; XXV)

PREAMBLE

We, the people of the Torres Martinez Desert Cahuilla Indians, originally known as the "Kawias", in order to secure the power to exercise our customs and traditions and administer justice, being a sovereign nation, do hereby ordain and establish this Constitution for our government.

ARTICLE I - NAME

SECTION 1. The name of this Tribe of Indians shall be the Torres Martinez Desert Cahuilla Indians, hereinafter referred to as the Desert Cahuilla Tribe.

SECTION 2. The name of the reservation of the Desert Cahuilla Tribe shall be the Torres Martinez Indian Reservation.

ARTICLE II - TERRITORY

The Torres Martinez Indian Reservation was established by Executive Order on May 15, 1876. An Act of February 11, 1903 (32 Stat. 822; c. 542) added 640 acres of State lands to the Reservation in exchange for lands to be set apart for the Torres Band under the Act of January 12, 1891 (26 Stat. 712-14; c. 65). The territory of the Desert Cahuilla Tribe includes the lands within the boundaries of the Torres Martinez Indian Reservation, including any lands which may hereinafter be added to the Torres Martinez Indian Reservation by any means.

ARTICLE III - JURISDICTION

The governmental powers of the Desert Cahuilla Tribe, a federally recognized sovereign Indian Tribe, shall, consistent with all applicable federal law, extend to all persons and subjects, to all lands and other property, including, but not limited to, natural resources, and to all water and air space, within the exterior boundaries of the Torres Martinez Indian Reservation, including any lands that may hereinafter be added to the Torres Martinez Indian Reservation by any means.

ARTICLE IV - MEMBERSHIP

SECTION 1. Membership in the Desert Cahuilla Tribe shall consist of those living Indians in the following categories:

A. All persons enrolled on the census roll of the Torres Martinez Desert Cahuilla Indians (formerly known as the Torres Martinez Band of Mission Indians) on August 16, 1957; provided that the roll may be corrected at any time by the Desert Cahuilla Tribe's enrollment committee and approved by a majority vote of the General Council.

B. All lineal descendants of those persons in subsection A above, provided such descendants shall not have less than one-quarter (1/4) Indian blood. Indian blood is defined as blood which is of a United States American Indian whose tribal entity is federally recognized by the United States Government.

SECTION 2. The names of persons who qualify for membership in the Desert Cahuilla Tribe shall be placed on the membership roll that shall be kept current by striking therefrom:

A. Individuals who have relinquished, in writing, their membership in the Desert Cahuilla Tribe; and

B. Deceased individuals upon receipt of a death certificate or other evidence of death acceptable to the Area Director of the Sacramento Area Office of the Bureau of Indian Affairs.

SECTION 3. The membership roll shall be kept current by adding thereto the names of children born after August 16, 1957 who meet the membership requirements as set forth in Section 1, Paragraph B, of this Article.

SECTION 4. The General Council shall have the power to prescribe rules and regulations by ordinance governing enrollment and membership.

SECTION 5. The official membership roll shall be prepared according to an Enrollment Ordinance adopted by the Desert Cahuilla Tribe. Until otherwise amended or revised, the Enrollment Ordinance adopted by the Desert Cahuilla Tribe on October 23, 1977 shall be in full force and effect.

SECTION 6. A person shall not be eligible for membership in the Desert Cahuilla Tribe if he/she:

- A. Is not a lineal descendant of those persons enrolled on the Desert Cahuilla Tribe census roll of August 16, 1957 or does not have one-quarter (1/4) Indian blood (see Article IV, Section 1 (B) for definition of "Indian blood."); or
- B. Is eligible for or has received an allotment or assignment on another Indian reservation; or
- C. Is officially enrolled in another Tribe, Band or other Indian entity; or
- D. Is a recognized member of another Tribe, Band, or other Indian entity (i.e., said person is so recognized by another Indian entity by reason of his/her association or involvement with that entity or has shared in the assets of said Tribe, Band, or other Indian entity).

ARTICLE V - CIVIL RIGHTS

SECTION 1. Pursuant to the federal Indian Civil Rights Act of 1968 (82 Stat. 77, codified at 25 U.S.C. §1302) and all valid amendments thereof, the Desert Cahuilla Tribe, in exercising its powers of self-governance, shall not:

- A. Make or enforce any law prohibiting the full exercise of religion or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and to petition for a redress of grievances;
- B. Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures; nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- C. Subject any person for the same offense to be twice put in jeopardy;
- D. Compel any person in any criminal case to be witness against himself;
- E. Take any private property for public use without just compensation;
- F. Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense, to have the assistance of counsel for his defense;
- G. Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$5,000, or both;

- H. Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.
- I. Pass any bill of attainder or ex post facto law; or
- J. Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

SECTION 2. The Desert Cahuilla Tribe shall not deny any Tribal member the right to review tribal records in accordance with Article XVIII of this Constitution.

ARTICLE VI - GENERAL COUNCIL

The governing body of the Desert Cahuilla Tribe shall be the General Council which shall consist of all enrolled adult voting members of the Desert Cahuilla Tribe eighteen (18) years of age or older.

ARTICLE VII - MEETINGS OF THE GENERAL COUNCIL

SECTION 1. Meetings of the General Council shall be held at least monthly.

SECTION 2. The Chairperson may call special meetings at any time.

SECTION 3. Special meetings will be called by the Chairperson when a petition is signed by at least 25% of the qualified voting members of the Desert Cahuilla Tribe.

SECTION 4. Notice of all Special General Council meetings shall be given as follows:

All members on the Desert Cahuilla Tribe mailing list shall be notified by mail within ten (10) working days after a petition requesting such special meeting is filed and not less than two (2) working days prior to such special meeting.

SECTION 5. At least twenty-one (21) qualified voters must be present at all regular or special General Council meetings in order to constitute a quorum. Once a quorum is established, it is valid for the duration of the meeting.

SECTION 6. No business shall be conducted by the General Council in the absence of a quorum.

ARTICLE VIII - POWERS OF THE GENERAL COUNCIL

SECTION 1. The General Council shall have all powers and responsibilities necessary to promote the interests of the Desert Cahuilla Tribe subject only to such limitations as are imposed by this Constitution and applicable federal laws, including, but not limited to the following:

- A. To exercise by ordinance civil and criminal jurisdiction over all lands, persons and subjects within the exterior boundaries of the Torres Martinez Indian Reservation; and
- B. To manage, lease, contract, administer or otherwise deal with all Tribal property and assets; and
- C. To negotiate and contract with Federal, State, local and Tribal governments and private entities and their agencies, departments and officers; and
- D. To promulgate ordinances to safeguard and promote the peace, safety, morals and general welfare of the members of the Desert Cahuilla Tribe; and
- E. To employ legal counsel for the protection and advancement of the rights of the Tribe and its members; and
- F. To approve or veto the sale, disposition, lease or encumbrance of any Tribal lands, interest in lands or other

Tribal assets; and

G. To establish rules and/or procedures for the conduct of the Desert Cahuilla Tribe's affairs and, by appropriate ordinance or resolution, delegate to the Tribal Council or any other committee any of the powers and duties of this Article; and

H. To charter State or Tribal corporations; and

I. To assess fees or impose fees for the payment of expenses for the Desert Cahuilla Tribe or to finance any project or activity which in its opinion is for the benefit of the Desert Cahuilla Tribe; and

J. ~~To establish by ordinance a judicial system pursuant to the Desert Cahuilla Tribe's inherent sovereign power to enforce civil and criminal laws within the exterior boundaries of the Torres Martinez Indian Reservation. Said judicial system shall be a separate and distinct branch of government equal in status to the General Council; and~~
[Repealed 11-20-2004]

K. To manage all economic affairs and enterprises of the Desert Cahuilla Tribe; and

L. To license and regulate the conduct of business activities within Tribal jurisdiction; and

M. To take all actions or to exercise any power not specifically set forth in this Article which may be necessary and proper for the exercise of the powers enumerated in this Constitution and which are otherwise consistent with and in furtherance of Tribal customs, traditions and beliefs.

ARTICLE IX - TRIBAL COUNCIL

SECTION 1. The Tribal Council of the Desert Cahuilla Tribe shall be comprised of the following elected officers and council members:

- A. Chairperson (1)
- B. Vice-Chairperson (1)
- C. Secretary (1)
- D. Treasurer (1)
- E. Council Members (4)
- F. Proxies (2)

SECTION 2. Tribal Council members shall serve a concurrent term of two (2) years or until their successors are duly elected and installed.

SECTION 3. Five (5) members of the Tribal Council shall constitute a quorum for Tribal Council meetings.

SECTION 4. The Tribal Council shall not conduct any business in the absence of a quorum.

SECTION 5. The Tribal Council shall meet at least twice monthly on the second and fourth Sunday of each month, unless otherwise changed by the Chairperson. Such meetings shall take place in the Desert Cahuilla Tribal Hall and shall be open to the General Council unless involving confidential matters.

SECTION 6. The Tribal Council shall be notified by certified mail of all special meetings. The Chairperson or a majority of the Tribal Council may call special meetings. Special meetings may be held in the Desert Cahuilla Tribal Hall or elsewhere.

SECTION 7. The duties and responsibilities of the Tribal Council are set forth in this Constitution under Article XVI.

SECTION 8. The General Council shall immediately appoint a person or hold a special election to fill the unexpired term of any Tribal

Council officer (Chairperson, Vice-Chairperson, Secretary, or Treasurer) who has resigned, died or been removed from office in accordance with an Election Ordinance adopted by the Desert Cahuilla Tribe. Until a final decision of the General Council on whether to appoint a person or hold a special election to elect a new officer the remaining officers shall serve as Acting officers as follows:

- A. If the office of the Chairperson is vacated, the Vice-Chairperson shall also serve as the Acting Chairperson;
- B. If the office of the Vice-Chairperson is vacated, the Chairperson shall also serve as the Acting Vice-Chairperson;
- C. If the office of the Secretary is vacated, the Treasurer shall also serve as the Acting Secretary;
- D. If the office of the Treasurer is vacated, the Secretary shall also serve as the Acting Treasurer.

SECTION 9. A Council Member who has resigned, died or been removed from the Tribal Council in accordance with an Election Ordinance adopted by the Desert Cahuilla Tribe shall be immediately replaced by a Proxy.

SECTION 10. If an elected Tribal Council member fails or refuses to attend three meetings in succession, for which he or she is held responsible and for which he or she is not excused by the General Council, his or her office shall be considered forfeited immediately. In the case of a Tribal officer, the General Council shall hold a special election to elect another member of the Desert Cahuilla Tribe to serve the unexpired term of the forfeited office. In the case of a Council Member, a Proxy shall serve the unexpired term of the forfeited Council Member position.

SECTION 11. In order to have a balanced Tribal Council, there shall be no more than two (2) immediate family members serving on the Tribal Council at one time (same term). Immediate family members include mothers, fathers, brothers, sisters, sons, daughters and spouses.

ARTICLE X - POWERS OF THE TRIBAL COUNCIL

SECTION 1. The Tribal Council shall have the following administrative powers and duties; PROVIDED that the Tribal Council shall not commit the Desert Cahuilla Tribe to any contract or lease unless it is so empowered by a duly enacted ordinance or resolution of the General Council:

- A. Place into effect and implement all ordinances, resolutions and motions of the General Council; and
- B. Represent the Desert Cahuilla Tribe in all negotiations between the Desert Cahuilla Tribe and local, State, Tribal and Federal governments and private entities and their agencies, departments and officers; and
- C. Faithfully and accurately advise the General Council of all aforesaid negotiations.

SECTION 2. EMERGENCY POWERS OF THE TRIBAL COUNCIL

- A. The Tribal Council shall exercise emergency powers to act on behalf of the Desert Cahuilla Tribe without the specific authorization of the General Council when the Tribal Council establishes that an emergency or urgent matter exists.
- B. Such emergencies and urgent matters shall be those requiring immediate attention in order to prevent injury, damage or loss to the interests of the Desert Cahuilla Tribe or an individual member. Emergencies and urgent matters shall be defined by an Emergency and Urgent Matter Ordinance to be adopted by the Desert Cahuilla Tribe.
- C. The scope of the Tribal Council's emergency powers shall be defined by an Emergency and Urgent Matter Ordinance to be adopted by the Desert Cahuilla Tribe.

D. The responsibilities of the Tribal Council to the General Council and the Desert Cahuilla Tribe following such emergencies and urgent matters shall be defined by an Emergency and Urgent Matter Ordinance to be adopted by the Desert Cahuilla Tribe.

ARTICLE XI - ELECTIONS

SECTION 1. All members of the General Council shall have the right to vote.

SECTION 2. All members of the General Council shall be eligible to be nominated and elected into office UNLESS:

- A. the member has been found guilty of a felony in any State, federal or Tribal court (a pending appeal of such conviction does not exempt a member from this provision); or
- B. the member was previously petitioned and recalled out of office following the adoption of this Constitution.

SECTION 3. All elections shall be by secret ballot.

SECTION 4. All nominations for Tribal Council and all elections shall be conducted in accordance with an Election Ordinance to be adopted by the Desert Cahuilla Tribe, which shall contain the following:

- A. Form of ballot; and
- B. Rules for calling elections; and
- C. Selection of Election Committee; and
- D. Duties of Election Committee; and
- E. Rules for nominations and candidate qualifications; and
- F. Establishment of polling places; and
- G. Any other appropriate matters (e.g. dates).

SECTION 5. Any person holding office on the date of this Constitution's approval shall serve out their respective terms of office.

SECTION 6. The first election to be held pursuant to this Constitution shall be on the second Sunday of December of the upcoming election year.

ARTICLE XII - VACANCIES AND RECALL

SECTION 1. If an official shall die, resign or be recalled from his/her position or be found guilty of a felony in any State, Federal or Tribal Court, the official shall automatically vacate his/her position. A pending appeal of a felony conviction does not exempt an official from this section.

SECTION 2. Upon petition signed by at least fifty-one percent (51%) of the qualified voters of the Desert Cahuilla Tribe, the Tribal Council shall call a Special Meeting of the General Council for the recall of an official within sixty (60) days after receipt of said petition.

SECTION 3. Before any vote for removal, the accused official shall be given a written statement containing all charges against him/her at least ten (10) days before a Special Meeting of the General Council. At the Special Meeting and prior to a vote for removal, the official shall be given a fair opportunity to answer all charges.

SECTION 4. At the special recall meeting the General Council may, by majority vote, remove any official who is the subject of such recall for the following reasons:

- A. For failure to carry out the responsibilities and duties of his/her position; or
- B. For gross neglect of duties; or
- C. Misconduct reflecting on the dignity and integrity of the Desert Cahuilla Tribe; or
- D. Being under the influence of a controlled substance or alcohol while conducting Tribal Business.

SECTION 5. After a successful recall, the recalled official shall not be eligible to hold office.

ARTICLE XIII - REFERENDUM

Upon presentation to the Desert Cahuilla Tribal Council of a petition signed by twenty- five percent (25%) of the qualified voters, the Tribal Council shall provide that the issue presented by the petition be voted on within sixty (60) days, by secret ballot, at a regular or special election. The Desert Cahuilla Tribe shall abide by the majority vote of the votes cast in any such election.

ARTICLE XIV - CONFLICT OF INTEREST

SECTION 1. In carrying out the duties of a Tribal officer, no Tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a substantial personal financial interest, other than interests held in common by all Tribal members, against the best interests of the Desert Cahuilla Tribe.

SECTION 2. The General Council may by ordinance prohibit other kinds of conflicts of interests.

ARTICLE XV - LAND

SECTION 1. The lands of the Torres Martinez Indian Reservation and all lands which maybe acquired in the future by the Desert Cahuilla Tribe shall be held as Tribal lands.

SECTION 2. Tribal lands may be assigned to members of the Desert Cahuilla Tribe in accordance with an Assignment Ordinance to be adopted by the Desert Cahuilla Tribe. Such ordinance shall contain:

- A. Eligibility requirements for an assignment; and
- B. Procedures for requesting an assignment; and
- C. Rules and regulations concerning the granting of an assignment; and
- D. Rules and regulations concerning the holding and relinquishment of an assignment; and
- E. Rules and regulations concerning improvement on an assignment; and
- F. Rules and regulations concerning the revoking of an assignment; and
- G. Any other appropriate matters.

ARTICLE XVI - DUTIES OF THE TRIBAL COUNCIL

SECTION 1. The Chairperson shall:

- A. Preside at all meetings of the General Council and the Tribal Council.

- B. Execute on behalf of the Tribe all contracts, leases and other documents approved by the General Council.
- C. Have general supervision of all other officers, employees and committees of the Tribe and see that their duties, which include submittal of documentation on assigned tasks (i.e. trip/meeting reports, receipts, travel vouchers, telephone logs, copies of information obtained at meetings, etc.), are properly performed.
- D. Be the official representative of the Tribe, when neither the General Council nor the Tribal Council is in session, but shall refrain from discussing any Tribal matters with the media without prior approval from the General Council.
- E. Continue to seek ways of strengthening Tribal Government.
- F. Keep all responses to public inquiries on Tribal operations brief and shall not disclose confidential information on any Tribal member.
- G. Be responsible for the administrative details of calling and holding meetings of the Tribal Council and General Council.
- H. Perform such other duties as may be prescribed by this Constitution, by ordinance, or as required by the General Council.
- I. Should not vote in Tribal Council meetings or General Council meetings unless a tie in vote needs to be decided.
- J. Shall co-sign all Tribal checks.

SECTION 2. The Vice-Chairperson shall:

- A. Be the official representative of the Desert Cahuilla Tribe and perform all duties as Chairperson in the absence of the Chairperson.
- B. Shall be available to assist the Chairperson in strengthening Tribal Government.
- C. Shall attend all workshops and meetings in the absence of the Chairperson.
- D. Will be responsible for submitting documentation (i.e. trip/meeting reports, receipts, travel vouchers, telephone logs, copies of information received at meetings, etc.) on all meetings and workshops to the Tribal Council at the next regularly scheduled Tribal Council meeting.
- E. If authorized by the Chairperson, may assist the Chairperson in the performance of the Chairperson's duties.
- F. Perform such other duties as may be prescribed by this Constitution, by ordinance, or as required by the General Council.
- G. Vote on all issues as an elected official unless performing duties as, the Acting Chairperson.

SECTION 3. The Secretary shall:

- A. Perform the duties of the Chairperson when the Chairperson and Vice-Chairperson are absent or unable to perform such duties.

- B. Keep the minutes for both the General Council meetings and meetings of the Tribal Council.
- C. Certify the enactment of all ordinances and resolutions of both the Tribal Council and General Council.
- D. Give all notices as required by the Constitution.
- E. Receive, on behalf of the Tribal Council, all petitions as provided for in this Constitution.
- F. Insure submittal of all Tribal program reports in a timely manner.
- G. Perform such other duties as may be prescribed by this Constitution, ordinance, or as required by the General Council.
- H. Vote on all issues as an elected official.
- I. Co-sign all Tribal checks in the absence of the Chairperson.

SECTION 4. The Treasurer shall:

- A. Be responsible for the deposition of all monies in an approved depository.
- B. Be responsible for the maintenance of financial accounts, receipts, and records (i.e., maintain an accurate check register and balance with bank statements monthly, etc.) which shall be available for inspection by members of the General Council or Tribal Council.
- C. Be responsible for disbursement of all funds and to pay all Tribe's bills with a two-signature check (co-signed by the Chairperson or the Secretary in the Chairperson's absence) as ordered by the General Council or Tribal Council when authorized to expend such funds.
- D. Be bonded in an amount to be specified by the Tribal Council on all account balances, expenditures and receipts.
- E. Give reports to the General Council and Tribal Council on all account balances, expenditures and receipts.
- F. Meet with bank officials on the status of all Tribal accounts.
- G. Attend bookkeeping and financial workshops and submit reports on such meetings and seminars to the Tribal Council and/or General Council.
- H. Prepare a final fiscal budget for the Tribe immediately and for each fiscal year thereafter.
- I. Perform such other duties as may be prescribed by this Constitution, by ordinance, or as required by the General Council.
- J. Vote on all issues as an elected official.

SECTION 5. The Council Members shall:

- A. Attend all meetings of the General and Tribal Councils.

- B. Attend a minimum of three (3) workshops during a term of office in subjects which relate to activities' and responsibilities of the Tribe.
- C. Participate in committees involved with Tribal affairs.
- D. Perform all other such duties as may be prescribed by this Constitution, by ordinance, or as required by the General Council
- E. Vote on all issues as elected officials.

SECTION 6. The Proxies shall:

- A. Perform the duties of the Tribal Council Members (this does not include the Chairperson, Vice-Chairperson, Secretary or Treasurer) in the absence of a quorum at Tribal Council and General Council meetings.
- B. Attend workshops related to Tribal activities and affairs if a Tribal Council Member is unable to attend.
- C. Vote only if a quorum of the Tribal Council is not present and less than four (4) Council Members are present.
- D. Receive all information provided to elected Tribal Council Members to ensure current knowledge of all activities of the Tribal Council and General Council. Proxies are encouraged to attend General Council and Tribal Council meetings for the same reason.
- E. Perform such other duties as may be prescribed by this Constitution, by ordinance, or as required by the General Council.

ARTICLE XVII - ACTIONS BY GENERAL COUNCIL

SECTION 1. Ordinances, Resolutions and Motions

- A. The General Council shall act by ordinance, resolution or motion.
 - (1) All acts of a general or permanent nature or those affecting compelling interests of the Desert Cahuilla Tribe or its members shall be by an ordinance adopted by the General Council such as an Election Ordinance Enrollment Ordinance, Assignment Ordinance, etc.
 - (2) All other actions shall be in the form of a resolution or a motion, depending upon the nature of the action.
 - a. Action by resolution shall be the form of action in which the purpose or policy underlying the action taken is expressly set forth in an accompanying statement of purpose or policy; such as requesting assistance of the Bureau of Indian Affairs, approval of contracts and grants, etc.
 - b. Action by motion shall be the form of action in which only the action taken is expressly set forth without an accompanying statement of purpose or policy. Such actions include acceptance of committee reports, adoption of minutes of meetings, etc.
- B. Every ordinance shall be incorporated in writing and printed form with the enabling clause: BE IT RESOLVED BY THE TORRES MARTINEZ DESERT CAHUILLA INDIANS.
- C. Except for existing ordinances, the procedure for enactment of ordinances shall be as follows:
 - (1) The ordinance shall be introduced at either regular or special meetings, and;
 - (2) The ordinance shall be read in full, and copies of the ordinance shall be made available to all members of the

General Council at or before the meeting at which the ordinance is introduced.

(3) After the first reading of the ordinance in accordance with subsection C(2) above, the ordinance shall be approved with or without amendment, rejected, or tabled by vote of the General Council.

(4) If the ordinance is tabled, the ordinance may be considered at subsequent meetings of the General Council until it is approved with or without amendment or rejected by vote of the General Council.

D. Every ordinance, resolution or motion shall be adopted by the affirmative vote of at least a majority of the General Council present at the regular or special meeting of the General Council.

E. No ordinance or section or subsection of an ordinance shall be amended, superseded or repealed except by ordinance regularly adopted, provided that repeal may be by reference to the title of the ordinance or any part thereof.

F. An ordinance as finally enacted shall be certified by the signatures of the Tribal Council members present at said meeting when the ordinance is adopted.

G. A true copy of every certified ordinance shall be numbered and recorded in the official records of the Desert Cahuilla Tribe.

ARTICLE XVIII - TRIBAL RECORDS

SECTION 1. Definition of Tribal Records:

A. Tribal records shall include documents of all kinds and any other form of record keeping which result from the operation of the Tribal government. Except as otherwise specifically provided by Tribal ordinance, Tribal records shall include, but are not limited to, the following:

(1) Records of the Tribal Council or General Council meetings and any action taken therein;

(2) All financial records,

(3) Records of court proceedings and any court decisions or orders involving the Desert Cahuilla Tribe, EXCLUDING confidential proceedings such as juvenile and family law matters in which the Tribe is an intervening party or witness;

(4) All correspondence, memoranda and any other documents or other form of records produced by Tribal officers or their agents while holding office and during the performance of their duties.

B. All Tribal records shall be the exclusive property of the Desert Cahuilla Tribe and shall be transferred by Tribal officials leaving office to the appropriate Tribal officer taking office.

C. The General Council may designate the form in which records shall be kept.

D. Current Tribal records shall be preserved in the files of the Tribal office and archived files may be stored in another facility designated by the General Council.

E. Tribal records, excluding personnel or personal files of the Desert Cahuilla Tribal members, shall be fully accessible for review. Such review shall be conducted during normal office hours and approval to review such records shall be in accordance with procedures as set by the General Council.

F. The General Council may establish rules and procedures so that review of Tribal records will be conducted in a reasonable manner so as to avoid undue disturbance of the daily operation of the Tribal Government.

ARTICLE XIX - ORDER OF BUSINESS

SECTION 1. Order of business of General Council Meetings and Tribal Council Meetings.

A. The order of business at all General Council and Tribal Council meetings shall be as follows: PROVIDED that the order may be suspended by vote of the General Council or Tribal Council:

- (1) Call to Order
- (2) Establish Quorum
- (3) Guest Speakers
- (4) Staff Reports
- (5) Reading of Minutes of Last Meeting
- (6) Adoption of the Minutes as Read of the Last Meeting
- (7) Financial Report
- (8) Old Business
- (9) New Business
- (10) Committee Reports
- (11) Announcements
- (12) Adjournment

ARTICLE XX - AMENDMENTS

SECTION 1. This Constitution may be amended by a majority vote of the votes cast by qualified voters of the Desert Cahuilla Tribe, voting in an election called for that purpose.

SECTION 2. Amendments so ratified shall have full force and effect from the date of adoption.

SECTION 3. Written notice of the date, time and place of any election on any proposed amendment must be sent to all qualified voters of the Desert Cahuilla Tribe not less than thirty (30) days before the election and must contain the full text of the proposed amendment.

ARTICLE XXI - ADOPTION

SECTION 1. Adoption of this Constitution requires a majority vote of the votes cast by qualified voters of the Desert Cahuilla Tribe, voting in an election called for this purpose.

SECTION 2. This Constitution so ratified shall have full force and effect from the date of its adoption.

ARTICLE XXII - SAVINGS CLAUSE

All prior enactment's of the Desert Cahuilla Tribe not inconsistent with this Constitution shall continue in full force and effect following the adoption of this Constitution.

ARTICLE XXIII - SEVERABILITY

If any provision of this Constitution shall be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

CERTIFICATION OF ADOPTION

WE, the undersigned, duly elected Tribal Council of the Torres Martinez Desert Cahuilla Indians, do hereby certify that the foregoing CONSTITUTION was adopted by a vote of 31 "for" and 14 "against" at a duly called Tribal Election called for this purpose on the 9th day of November 1997, at the Torres Martinez Community Hall, Thermal, California.

TORRES MARTINEZ TRIBAL COUNCIL

/s/

Arthur R. Lopez, Tribal Chairperson

/s/

Pauline Duro, Vice-Chairperson

/s/

Altrena Torres, Secretary

/s/

Gilbert Toro, Treasurer

/s/

Derlene Auclair, Council Member

/s/

Donald Duro, Council Member

/s/

Joe Miranda, Council Member

/s/

Harvey Duro, Council Member

ARTICLE XXIV – REPEAL ARTICLE VIII Section 1(J)

Article VIII, Section 1(J) of the Constitution of the Torres Martinez Desert Cahuilla Indians is repealed.

ARTICLE XXV – TRIBAL COURT

SECTION 1 – Establishment. The judicial power of the Desert Cahuilla Tribe shall be vested in the Torres Martinez Desert Cahuilla Indians Trial Court and in the Torres Martinez Desert Cahuilla Indians Appellate Court.

SECTION 2 – Alternative Courts. The General Council may establish courts of traditional dispute resolution and lower courts of special jurisdiction.

SECTION 3 – Inter-Tribal Court System. The General Council may elect to enter into a contractual agreement to participate in an inter-tribal court system to provide judicial and other services for the Torres Martinez Trial or Appellate courts.

SECTION 4 – Jurisdiction. It is the intent of the Desert Cahuilla Tribe to exercise its territorial, personal, and subject matter jurisdiction over Indians and non-Indians to the fullest extent possible.

SECTION 5 – Powers of the Court. The Courts shall have the power to interpret and apply the Constitution, statutes, ordinances, resolutions, common law, and customary law of the Desert Cahuilla Tribe and any other applicable laws.

SECTION 6 – Judges. The General Council shall establish a Judiciary Ordinance specifying the appointment procedures, qualifications, tenure, salary, performance review and impeachment of judges.

SECTION 7 – Court Procedures. The General Council shall establish a Judiciary Ordinance specifying judicial procedures and all other provisions as deemed necessary for the operation of the courts of the Desert Cahuilla Tribe. The Court may adopt interim rules until such provisions are enacted. All advocates must be admitted to practice before the Tribal Court.

ADOPTION OF AMENDING ARTICLES XXIV AND XXV

Torres Martinez Desert Cahuilla Indians

REPORT OF SPECIAL TRIBAL ELECTION

DATE: 11-20-04

EFFECTIVE DATE: 11-20-04

TYPE:	NO. of VOTE
To Amend the Constitution of Torres Martinez Desert Cahuilla Articles XXIV and XXV	Approve proposed Amendments XXV And XXIV 26 Not Approved 2 Invalid 1

We hereby certify that the election results are true and correct.

ELECTION COMMITTEE OR BOARD

1. *Amelia Chihuahua*

2. *Joe Fox*

3. _____

4. _____