



# STAFF REPORT – CITY COUNCIL MEETING

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December 21, 2022

**TO:** Honorable Mayor and City Council Members

**FROM:** Emily Sinkhorn, Director of Environmental Services

**PREPARER:** Emily Sinkhorn, Director of Environmental Services

**DATE:** November 02, 2022

**TITLE:** **Approve an Annual Agreement between the Wiyot Tribe and the City of Arcata for Cultural Resource Monitoring Services; and Authorize the City Manager to Execute All Applicable Documents.**

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## **RECOMMENDATION:**

It is recommended that the Council Approve an Annual Agreement between the Wiyot Tribe and the City of Arcata for Cultural Resource Monitoring Services; and Authorize the City Manager to Execute All Applicable Documents.

## **INTRODUCTION:**

The City regularly consults government-to-government with local Tribes as projects are planned that could have any potential impact on cultural resources. The City engages with Tribal Historical Preservation Officers (THPOs) from the Wiyot Tribe, Blue Lake Rancheria and the Bear River Band of the Rohnerville Rancheria through AB 52 consultation during the environmental compliance phase of projects, as well as on maintenance projects that may be exempt from CEQA but entail a level of ground disturbance that could potentially impact cultural resources. The City has entered into a cultural monitoring contract with the Wiyot Tribe for a one-time project; however, the City recognizes the benefit of an annual contract that would codify roles for cultural resource monitoring and provide compensation for these monitoring services.

## **DISCUSSION:**

The City recently conducted stormwater drainage maintenance along a section of Old Arcata Road. The City secured required permits through the North Coast Regional Water Quality Control Board and during the permit process consulted with THPOs from the Wiyot Tribe, Blue Lake Rancheria and the Bear River Band of the Rohnerville Rancheria. As this section of Old Arcata Road has nearby known cultural resources, the Wiyot Tribe and Bear River responded requesting cultural monitoring during drainage excavation activities. A contract was negotiated by the City Manager with the Bear River Rancheria and also for a one-time contract with the Wiyot Tribe to carry out monitoring for this specific drainage maintenance project. The project was completed successfully without disturbance to cultural resources.

The Wiyot Tribe agreed to this one-time contract with mediation noted as the mechanism to settle any contract dispute; however, the Tribe has requested for future projects that arbitration be utilized to settle any contract controversy or claim. While this contract would fall under the limits for the City Manager to negotiate, the City Manager does not have the authority to bind the City to arbitration, only the City Council may bind the City to arbitration. Section 11 of the draft agreement outlines the arbitration clause.

City staff recommend entering into this annual contract with the Wiyot Tribe that codifies roles for a cultural resource monitoring agreement and provides compensation for these monitoring services.

**POLICY IMPLICATIONS:**

This agreement is consistent with Council's 2022/23 Priority Project #14 Work to improve government relationships with local Tribal Governments.

**BUDGET/FISCAL IMPACT:**

Costs for implementing this annual contract will be covered through individual project budgets planned during the Council's annual budgeting process.

**ATTACHMENTS:**

Wiyot Tribe Monitor Contract agreement with arbitration clause (PDF)