

APPENDIX E

Memoranda of Understanding (MOU)

Rohnert Park MOU

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") is made this ~~14~~ day of October, 2003, by and between the City of Rohnert Park, California (the "City"), and the Federated Indians of the Graton Rancheria, a federally recognized Indian tribe listed in the Federal Register as Graton Rancheria, California (the "Tribe" and, together with the City, individually a "Party" and collectively the "Parties"). The capitalized terms not otherwise defined herein have the meaning set forth below.

RECITALS

WHEREAS, the Tribe is comprised of Coast Miwok and Southern Pomo Indians whose aboriginal territory includes Marin and Sonoma Counties, California; and

WHEREAS, in 1920, the United States acquired a parcel of land in Sonoma County in trust for the benefit of the Tribe which became known as the Graton Rancheria; and

WHEREAS, in 1966, the United States terminated its government-to-government relationship with the Tribe pursuant to the California Rancheria Act of 1958 (Pub. L. 88-453) and distributed to private individuals the tribal reservation lands which it had held in trust for the benefit of the Tribe; and

WHEREAS, thereafter, the federal government's policy of terminating California Indian tribes and selling land held in trust for such tribes has been expressly repudiated by both Congress and the Executive Branch; and

WHEREAS, in 1997, the Advisory Council on California Indian Policy, which was established pursuant to federal statute (Pub. L. 102-416), issued a Final Report to Congress which concluded that the Tribe met the criteria for restoration and recommended that Congress immediately restore the Tribe; and

WHEREAS, in 2000, Congress restored the federal government's government-to-government relationship with the Tribe pursuant to the Restoration Act (as defined below); and

WHEREAS, since the disestablishment of the Graton Rancheria reservation and the dispersal of the lands located therein in the 1960s, the Tribe has been landless and in need of a reservation to conduct Tribal and economic development activities for the benefit of the Tribe and its members; and

WHEREAS, the legislative history of the Restoration Act confirms that the Tribe has historical and cultural ties to lands now encompassed within Marin and Sonoma Counties; and

WHEREAS, the Restoration Act provides that the Secretary of the Interior, on behalf of the Tribe, shall accept trust title to land in Marin County or Sonoma County, that such land shall be the Tribe's reservation, and that Marin and Sonoma Counties shall be the Tribe's designated "service area"; and

WHEREAS, after substantial consultation with the County of Sonoma, California, the Tribe has identified the Property as a site which would be suitable for the Tribe's replacement reservation, which Property is located adjacent to the boundaries of the City and within the unincorporated area of the County; and

WHEREAS, the Tribe intends to submit an application to the Secretary of the Interior requesting that the United States take title to the Property so that it will be held in trust for the benefit of the Tribe as part of the Tribe's Reservation, and further requesting that the Secretary of the Interior make the determination that, once held in trust, the Reservation shall be eligible for gaming as restored lands under Section 20(b)(1)(B)(iii) of the IGRA (as defined below); and

WHEREAS, the Tribe intends to use its Reservation for, among other things, operation of a gaming enterprise pursuant to the terms of IGRA; and

WHEREAS, the Tribe further intends to establish a cooperative and mutually respectful government-to-government relationship with the City with respect to impacts that may be associated with the Project and other governmental issues of mutual interest to the Parties; and

WHEREAS, the Tribe is committed to entering into a voluntary contractual arrangement with the City pursuant to which the Tribe agrees to make certain contributions and community investments to mitigate various impacts that may arise in connection with the Project; and

WHEREAS, the City recognizes and acknowledges that the Property is located outside the boundaries of the City and therefore the City has no authority to exercise jurisdiction over the Property, the Reservation or the Project; and

WHEREAS, the City recognizes that through the Restoration Act Congress has required the Secretary of the Interior to accept trust title to any land acquired by the Tribe in Marin or Sonoma Counties, and the City further recognizes that the Secretary's mandatory duty to acquire such trust title effectively eliminates the ability of the City to have an impact on the question of where the Tribe's Reservation or gaming facility will be located; and

WHEREAS, the City acknowledges that the Project does not require the issuance of any permit, license, certificate or other entitlement for use; and

WHEREAS, the City does not have legal authority to deliberate on, approve, disapprove, or otherwise exercise judgment regarding the Project; and

WHEREAS, the City is therefore not deliberating on, approving, disapproving or otherwise exercising judgment regarding the Project by entering into this MOU; and

WHEREAS, but for this MOU, the City would not otherwise receive contributions for potential impacts of the Project; and

WHEREAS, the City acknowledges that the contributions and investments to be made by the Tribe and the other covenants made by the Tribe as set forth in this MOU are intended to be sufficient to mitigate the impacts of the Project on the City and surrounding community; and

WHEREAS, the purpose of this MOU is to set forth the understandings of the Tribe and the City on the topics expressly set forth in this MOU.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Definitions

The terms not defined elsewhere in this MOU shall have the following meanings:

"Construction Date" means the later of the date the Tribe closes a loan to obtain funds from a financial institution (other than Developer) to finance construction of the Project or commences vertical construction of the Project.

"County" means the County of Sonoma, California.

"CPI Adjustment" shall mean an annual increase from the dollar amount applicable to the previous year which is equal to the annual increase in the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose area.

"Developer" shall mean each or any of SC Sonoma Development, LLC, and SC Sonoma Management, LLC (which are both independent contractors of the Tribe) and their respective affiliates, successors and assigns (and use of the term "Developer" in this MOU in the singular shall be also deemed to include the plural).

"IGRA" means the Indian Gaming Regulatory Act of 1988 (25 U.S.C. §§ 2701 et seq.), and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"Mutual Aid Agreement" means (i) the California Master Mutual Aid Agreement, (ii) the Mutual Aid Agreement which the City has entered into with other fire

agencies to provide emergency response for designated areas or (iii) the Mutual Aid Agreement which the City has entered into with local agencies for law enforcement.

"NEPA" means the National Environmental Protection Act of 1970, as amended (42 U.S.C. §§ 4371 et seq.), and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"Net Revenues" means gross revenues less payments or deductions for operating expenses, loans and other deductions as defined in generally accepted accounting practices and principles.

"NIGC" means the National Indian Gaming Commission established pursuant to IGRA.

"Opening Date" means the date on which the Tribe commences gaming operations on the Reservation which are open to the public.

"Project" means the development, construction and operation on the Property or the Reservation of the gaming facility (and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which rooms, buildings and areas is to serve the activities of the gaming facility) identified in the environmental impact statement referenced in Section 2(b).

"Property" means the certain parcel of land which is located adjacent to the Urban Growth Boundary of the City that exists on the date of this MOU and within the unincorporated area of the County and which is identified by the legal description set forth on Exhibit A hereto, or any portion of such land.

"Public Entity" means the State and any county, city, district, public authority, public agency and any other political subdivision or public corporation in the State, including, without limitation, the City, the County, the Rohnert Park Department of Public Safety, the Rincon Valley Fire District, and the Sonoma County Sheriff.

"Reservation" means, after the Trust Acquisition Date, that portion of the Property which is taken into trust by the Secretary for the benefit of the Tribe.

"Restoration Act" means the Graton Rancheria Restoration Act (Pub. L. 106-568, 25 U.S.C. § 1300n).

"Secretary" means the Secretary of the United States Department of the Interior.

"State" means the State of California.

"Tribal-State Gaming Compact" means a Tribal-State Gaming Compact entered into or to be entered into between the Tribe and the State pursuant to IGRA which

permits the Tribe to operate Class III (as defined in IGRA) gaming devices and to engage in other Class III gaming activities and which the State has executed into pursuant to its authority under the California Constitution or other applicable law.

“Trust Acquisition Date” means the date on which the deed to the Property has been conveyed to and executed by the Secretary or the Secretary’s authorized representative such that the Reservation is held in trust for the benefit of the Tribe and is eligible for gaming pursuant to the requirements of IGRA.

2. Environmental Review

(a) Completion of NEPA Review Process Prior to Land in Trust

Notwithstanding the fact that the Restoration Act does not require the Secretary of the Interior to conduct an environmental review under NEPA prior to accepting trust title to the Property, the Tribe shall not transfer title to the Property, or cause to have such title transferred, to the United States unless and until either (i) the Department of Interior has concluded an environmental review of the Project under NEPA in connection with acceptance by the Department of Interior of trust title to the Property, or (ii) the NIGC has conducted an environmental review of the Project under NEPA in connection with approval by the Chairman of the NIGC of a management contract between the Tribe and SC Sonoma Management, LLC (or its successors and assigns). However, nothing in this Section shall be construed to preclude the Tribe from commencing or advancing the process by which the Department of Interior accepts trust title to the Property or the Chairman of the NIGC approves such management contract.

(b) NIGC NEPA Review Process

The Tribe acknowledges that it has requested that the NIGC act as the lead agency in the NEPA review process and that the NIGC prepare an environmental impact statement as distinguished from an environmental assessment, as part of its NEPA review process. To the extent requested by the NIGC, the Tribe shall cooperate with the NIGC in its NEPA review process and to supply the NIGC with information in the possession of the Tribe which will facilitate the NIGC’s efforts to comply with the NEPA review process. The Parties acknowledge that, assuming the NIGC acts as the lead agency and prepares an environmental impact statement, the NEPA review process will include the following: preparation and publication in the Federal Register of a Notice of Intent to prepare an environmental impact statement; identification of cooperating agencies, such as the Department of Interior; a scoping process to determine the scope and significant issues to be analyzed in the environmental impact statement; preparation of a draft environmental impact statement; issuance of the draft environmental impact statement for public review, a public comment period and public hearings; response to comments; preparation of a final environmental impact statement; issuance of a final environmental impact statement to the public; and issuance of a record of decision.

(c) Local Law Matters

The City acknowledges and agrees that:

(i) the City does not have authority or jurisdiction over the Property or the Reservation or gaming or other activities conducted thereon before or after the Trust Acquisition Date;

(ii) there is no approval, permit, license, certificate or other entitlement for use which the Tribe would be required to obtain from the City in connection with the Project or the Reservation prior to or after the Trust Acquisition Date;

(iii) neither the Project nor the Tribe's fee-to-trust application are subject to the California Environmental Quality Act or any City law, rule or regulation;

(iv) the Project and other developments on the Reservation are not subject to City environmental review, design, land use or land development ordinances, plans, manuals or standards;

(v) the City does not have legal authority to deliberate on, approve, disapprove, or otherwise exercise judgment regarding the Project; and

(vi) the City is not deliberating on, approving, disapproving or otherwise exercising judgment regarding the Project by entering into this MOU.

3. Mitigation and Impact Contributions

(a) Development Fee Contributions

Notwithstanding the fact that the Property is not located within the boundaries of the City and in order to mitigate potential impacts of the Project on the City, its staff and other resources, the Tribe shall contribute to the City, on or before the Construction Date, a one-time cash contribution of Two Million Six Hundred Sixty-Four Thousand Dollars (\$2,664,000) in lieu of the development and related fees which the City would otherwise receive for the development of a commercial project on the Property (as if the Property was located within the boundaries of the City). The amount of such contribution has been calculated based upon the City's standard development fees, capital outlay fund fees and traffic signalization fees multiplied by the number of square feet in the Project. This contribution is in lieu of development and related fees and does not constitute submission by the Tribe to the jurisdiction of the City, the County or any other Public Entity or any provision of their respective ordinances, regulations, codes or standards. The City acknowledges and agrees that the Tribe is not required to obtain any permit, license or

other approval from the City in connection with development or construction activities on the Property or the Reservation prior to or after the Trust Acquisition Date.

(b) Traffic Contributions

In order to mitigate potential impacts of the Project on transportation and traffic, the Tribe shall:

(i) contribute to the City contributions in such amounts (but not less than One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000)) as shall be sufficient to cover one half of the actual cost to the City to complete the widening of Wilfred Avenue from Highway 101 west to the City's urban growth boundary in accordance with the City's General Plan, which contributions shall be made by the Tribe in periodic installments after the Construction Date in accordance with a construction schedule to be mutually agreed upon by the City and the Tribe and which will enable the City to complete such construction prior to the Opening Date;

(ii) contribute to the City contributions in such amounts (but not less than Nine Hundred Thousand Dollars (\$900,000)) as shall be sufficient to cover the entire actual cost to the City to complete the widening of Rohnert Park Expressway from Rancho Verde to the west City limits in accordance with the City's General Plan, which contributions shall be made by the Tribe in periodic installments after the Construction Date in accordance with a construction schedule to be mutually agreed upon by the City and the Tribe which will enable the City to complete such construction prior to the Opening Date;

(iii) upon the request of the City, contribute to the City contributions in such amounts (but not less than Two Hundred Thousand Dollars (\$200,000)) as shall be sufficient to cover the entire actual cost to the City to install an on-demand activated traffic light at the entrance to the Rancho Verde Mobile Home;

(iv) contribute to the City contributions totaling Five Million Dollars (\$5,000,000) to pay toward the actual cost of construction of a new "minor arterial" crossing of Highway 101 (without interchange improvements) to connect State Farm Drive and Business Park Drive in accordance with the City's General Plan (provided, however, that, in the event the City is able to collect funds for such construction from developers or other sources, the City will return to the Tribe the amount of such contribution in excess of the Tribe's fair share of such costs), which contributions shall be made by the Tribe in periodic installments after the Construction Date in accordance with a construction schedule to be mutually agreed upon by the City and the Tribe which will enable the City to complete such construction prior to the Opening Date or as soon thereafter as possible (Upon completion of the traffic improvement specified in this clause (iv), the City will provide the Tribe with an accounting of the cost and a reconciliation of the Tribe's fair share of the traffic improvement. If the Tribe's fair share is less than the Tribe's contribution, the City shall reimburse the Tribe for the difference.

If the Tribe's fair share is greater than the Tribe's contribution, the Tribe shall make such additional contributions to the City);

(v) provide the Sonoma County Transportation Authority, CalTrans or the City with such information and other similar assistance as such Public Entities and the Tribe reasonably agree upon to facilitate their efforts to fast track the Wilfred Avenue/Golf Course interchange construction and Highway 101 widening from Wilfred Avenue to Old Redwood Highway, which assistance may include contributions by the Tribe to Sonoma County Transportation Authority, CalTrans or the City of the Tribe's fair share of the actual cost of design, approval and right-of-way acquisition for such improvements; and

(vi) hire a contractor (which contractor is a qualified traffic engineering firm independent of any contractor which may be hired by NIGC) to conduct a traffic engineering study, which study will identify significant (within the meaning of 40 Code of Federal Regulation 1508.27) off-Reservation impacts on traffic resulting from the Project and potential measures to mitigate such impacts.

(c) Fire Protection and Emergency Services Contributions

In order to mitigate potential impacts of the Project on fire protection and first responder services, the Tribe shall contribute to the City:

(i) contributions totaling Two Million Two Hundred Fifty Thousand Dollars (\$2,250,000) to be used by the City solely for the purpose of constructing a new public safety building (including a two story training tower) on the west side of the City or at a location to be mutually agreed upon by the City and the Tribe, which such contributions shall be made after the Construction Date and on such dates as shall be sufficient to enable the City to construct such new building and have it staffed and operational prior to the Opening Date;

(ii) contributions totaling Three Hundred Fifty Thousand Dollars (\$350,000) to be used by the City solely for the purchase of a type one fire engine to be stationed at such new public safety building, which such contributions shall be made after the Construction Date and on such dates as shall be sufficient to enable the City to acquire the fire engine, which contribution shall be made at such time as shall enable the City to acquire such fire engine prior to the Opening Date; and

(iii) contribution not to exceed Seventy Five Thousand Dollars (\$75,000) to enable the City to, and which shall solely be used to, relocate or cause the relocation of the repeater system from the former Cusher's Stadium to the new public safety building.

The Parties agree that the foregoing amounts are sufficient to cover the cost to the City of constructing and equipping a new public safety building which is of sufficient size and

quality to mitigate potential impacts of the Project on City fire protection and first responder services.

(d) Law Enforcement Contributions

In order to mitigate potential impacts of the Project on law enforcement resources, the Tribe shall:

(i) contribute to the City a one time contribution of Four Hundred Ten Thousand Dollars (\$410,000) to be used by the City solely for the purchase of public safety vehicles, which such contribution shall be made at such time as shall enable the City to acquire such vehicles by the Opening Date;

(ii) contribute to the City Seven Hundred Thousand Dollars (\$700,000) on July 1, 2004, and an annual contribution thereafter of Five Hundred Thousand Dollars (\$500,000) to be used by the City to establish a neighborhood enforcement team ("NET") to combat gangs, illegal drug use and other criminal activity in the City and surrounding community. Notwithstanding the foregoing, in the event the Construction Date has not occurred by June 30, 2006, the Tribe shall have the right to suspend such contributions until the Construction Date.

The Parties agree that such amounts are sufficient to cover the estimated cost of the equipment and other capital improvements and other expenditures which the City deems to be necessary or appropriate for the City to mitigate potential impacts of the Project on City law enforcement services.

(e) Problem Gambling Contributions

In order to mitigate potential social impacts of the Project, the Tribe shall, commencing on the Opening Date, make an annual contribution in the amount of \$125,000 to an organization dedicated to the treatment and prevention of problem gambling or pathological gambling disorders and which is located within or providing services within the area to be served by the Project. The recipient organization shall be determined by mutual agreement of the Tribe and the City.

(f) Community Contributions and Investments

In order to make investments in the Rohnert Park schools, housing and general community and in order to mitigate potential impacts of the Project on the Rohnert Park schools, housing and general community, the Tribe shall make investments in and contributions to the Rohnert Park community as follows:

(i) Not later than thirty (30) days after the Opening Date, the Tribe will establish the "Graton Rancheria Educational Trust for Cotati-Rohnert Park USD" (the "Educational Trust") pursuant to the California non-profit law. The Tribe shall make an

annual contribution to the Educational Trust of One Million Dollars (\$1,000,000). The Educational Trust will be governed by a board of directors (the "Educational Trust Board") consisting of two members designated by the Tribe, two members designated by the Cotati-Rohnert Park Unified School District and one member chosen by the other four members. All decisions of the Educational Trust Board shall be made by a majority vote. The funds in the Educational Trust shall be used to provide block grants to support the instructional programs of the Cotati-Rohnert Park Unified School District and otherwise mitigate potential impacts of the Project.

(ii) Not later than thirty (30) days after the Opening Date, the Tribe shall establish the "Graton Rancheria Charitable Foundation for Rohnert Park" (the "Charitable Foundation") pursuant to the California non-profit law. The Tribe shall make an annual contribution to the Charitable Foundation of Two Million Dollars (\$2,000,000). The Charitable Foundation will be governed by a board of directors (the "Charitable Foundation Board") consisting of two members designated by the Tribe, two members designated by the City and one member chosen by the other four members. All decisions of the Charitable Foundation Board will be made by a majority vote. The funds in the Charitable Foundation will be invested in programs which benefit the City, such as those described in the Healthy Cities Program, or such other programs or activities as agreed upon by the Charitable Foundation Board. One Million Dollars (\$1,000,000) of such funds will be invested annually in programs or activities suggested by the City representatives on the Charitable Foundation Board and the remaining One Million Dollars (\$1,000,000) of such funds will be invested annually in programs or activities suggested by the Tribe's representatives on the Charitable Foundation Board. The funds in the Charitable Foundation shall be invested in projects which enhance the City or Sonoma State University or which otherwise mitigate the impacts of the Project.

(iii) The Tribe shall make an annual contribution to the City of One Million Dollars (\$1,000,000) to be used for neighborhood upgrade or workforce housing programs. The City alone will have the authority to determine the use and distribution of these funds.

(iv) The first payment of the contributions referenced in this Section will be made within 30 days of the Opening Date. Any contribution described in this Subsection, plus interest thereon at the prime lending rate of Bank of America, made by the Tribe prior to the Opening Date will be credited against the contributions referenced in this Section. All contributions described in this Subsection 3(f) will be increased annually by the CPI Adjustment.

(g) Waterway Contributions

In order to mitigate potential impacts of the Project on storm water drainage, the Tribe shall make an annual contribution of Fifty Thousand Dollars (\$50,000) to the City which contribution shall be used solely to address storm water drainage matters.

(h) Open Space Contributions

In order to mitigate the loss of open space and community separator areas associated with the development of the Project the Tribe shall, at the Tribe's election after consultation with the City and not later than six months after the Opening Date, either (i) contribute Two Million Seven Hundred Thousand Dollars (\$2,700,000) to be used by the City solely for the purpose of purchasing real property for use by the public (including by way of illustration and not limitation, a park), or (ii) purchase real property, subject to approval of the City, for use by the public, with a purchase price of not less than Two Million Seven Hundred Thousand Dollars (\$2,700,000) and donate it to the City.

(i) Mobile Home Park Contributions

In order to mitigate potential impacts of the Project on the Rancho Verde Mobile Home Park, the Tribe shall make contributions to the City after the Construction Date (i) up to a maximum of Seven Hundred Thousand Dollars (\$700,000) and at such times as shall enable the City to implement measures, to be mutually agreed upon by the City and the Tribe and completed prior to the Opening Date, to mitigate the preexisting storm water flooding problem at Rancho Verde and the Martin Avenue area and to mitigate any significant noise impacts at Rancho Verde identified in the NEPA review process.

(j) Supplemental Contributions

In order to mitigate additional potential impacts of the Project, the Tribe shall, commencing 30 days after the Opening Date, contribute to the City in twelve (12) equal monthly installments a contribution in lieu of taxes in the amount of Five Million Dollars (\$5,000,000) per annum. Such annual contribution shall thereafter be annually adjusted by the CPI Adjustment. The Parties agree such amount is sufficient to mitigate additional initial and continuing impacts of the Project which are not specifically identified or mitigated elsewhere in this MOU

4. Contribution Matters

(a) Use of Contributions

The City shall make good faith efforts to segregate and identify expenditures made with funds provided to the City under this MOU and to publicly attribute such expenditures to the Tribe. The City shall expend the contributions made by the Tribe under this MOU for the purposes identified in the applicable provisions of this MOU. Upon the mutual agreement of the Tribe and the City, the Tribe may make any of the contributions contemplated to be made by the Tribe pursuant to this Section to an escrow account established by the Tribe for the benefit of the City or other appropriate entity. In the event the City fails to expend contributions as contemplated by this Section or fails to complete any mitigation measures contemplated by this Section by any given date or ever,

such failure shall not constitute a breach of the MOU by the Tribe or justify or require any delay in any phase of the Project.

(b) Deductions

The Tribe may deduct from the next contribution which the Tribe would otherwise be required to make pursuant to Subsection 3(j) the following amounts:

(i) the amount of any money which the Tribe pays the City (or any Public Entity for roadway or impact improvements within the City) in excess of the amounts specifically set forth in Section 3 in order to mitigate the impact or adverse effects of the Project;

(ii) the amount of any money which the Tribe pays to any Public Entity, fund or other person or entity pursuant to the Tribal-State Gaming Compact or any agreement between the Tribe and any Public Entity which is designated for and distributed to the City and is available to be used by the City in the same manner as the contributions made by the Tribe under this MOU are available to be used by the City; and

(iii) the principal amounts of the contributions which the Tribe makes to the NET referenced in Subsection 3(d), plus interest on the principal amounts of such contributions at a rate of prime plus one per cent (1%) calculated from the date the contributions are made to the date contributions would otherwise have been made under Section 3(j), provided that deductions pursuant to this clause (iii) shall be made in equal installments over a three (3) year period.

(c) Contribution Payment Terms

Where contributions are to be made monthly, the Tribe shall make the contribution on the City's first business day of the month for the preceding month. Where contributions are to be made quarterly, the Tribe shall make the contribution on the City's first business day after the first day of January, April, July, and October for that calendar quarter. Where contributions are to be made annually, the Tribe will make the contribution on the City's first business day of July for that year. Where contributions are to be increased by the CPI Adjustment, such adjustment shall be made on the first business day of July of each year. The first contribution shall be prorated for the applicable monthly, quarterly or annual period. The first CPI Adjustment, if applicable, shall also be prorated for the initial annual period. Unless otherwise specified, the first contribution shall be made thirty (30) days after the Opening Date. In the event the Construction Date or the Opening Date does not occur for any reasons, contributions payable after the Construction Date or the Opening Date, as the case may be, shall not be due.

(d) No Other Payments

Except as is expressly set forth in Sections 3 and 4 hereof, the Tribe shall not be required pursuant to this MOU or otherwise:

(i) to make any payments, reimbursements, contributions or investment to or on behalf of the City, County or any other Public Entity for any taxes, fees, assessments, charges, services or utilization of staff resources, including, without limitation, any property taxes, sales taxes, processing fees, development fees, building permit fees, construction tax, utility taxes, motor vehicle license fees, ad valorem tax or other payments for fire, emergency medical, law enforcement, water, wastewater, waste disposal or other services, or utilization of staff resources;

(ii) to pay the City, the County or any other Public Entity or any charitable organization or trust any other contributions or payments in mitigation of any environmental or other impacts of the Project or any other developments on the Reservation; or

(iii) acquire rights to any real property, or grant or transfer to the City, the County, any other Public Entity, any charitable organization or trust, or any other person or entity any rights to any real property, place, or conservation or other easement on any real property, or otherwise agree to forgo any rights with respect to any real property.

5. Additional Tribal Covenants

(a) General Infrastructure and Related Services

In order to mitigate potential impacts of the Project on City infrastructure resources, the Parties acknowledge and agree that the Tribe has not requested the City to extend any infrastructure or provide any services to the Tribe. In the event the Tribe were to request that the City provide infrastructure or related services to the Project at some future date, the Tribe acknowledges that State law may require environmental review pursuant to the California Environmental Quality Act and review by the Sonoma County Local Agency Formation Commission. The Tribe further acknowledges, that in such event, it will be required to pay the applicable fees and charges and its fair share of any capital improvements to extend such infrastructure.

(b) Water Services

The Parties acknowledge and agree that the Tribe has not requested that the Project be served by City water facilities, services or supply. The Tribe currently intends to install one or more water wells on the Property or the Reservation and to construct facilities necessary to assure a fire flow of 2,700 to 3,500 gallons per minute for a two hour duration. The Tribe may also explore and evaluate options with the Sonoma County Water Agency to identify a supply of water other than from new wells. To the extent

feasible and commercially reasonable (as determined by the Tribe), buildings in the Project will be designed using water conservation techniques.

(c) Wastewater Services

The Parties acknowledge and agree that the Tribe has not requested that the Project be served by, or included in, the City Wastewater Delivery and Treatment allocation from the subregional waste water system. The Tribe currently intends to install an on-site wastewater treatment system. The Tribe may explore and evaluate options with the subregional wastewater system and the City of Santa Rosa to determine whether, and, if possible, how additional flow capacity can be accommodated by the subregional waste water system. To the extent feasible and commercially reasonable (as determined by the Tribe), the Project will incorporate measures to minimize wastewater flows and use recycled water.

(d) Fire and Emergency Services

In order to mitigate potential impacts of the Project on fire and emergency services, the Tribe shall:

(i) construct the Project in accordance with standards no less stringent than those set forth in the Uniform Fire Code as adopted, amended and incorporated into the Rohnert Park Municipal Code as of the Construction Date, including the installation of sprinklers in all hotel rooms and restaurants;

(ii) provide the City with monthly fire inspection certifications during construction and annual fire inspection certifications after the Opening Date by inspectors approved by the City; and

(iii) allow the City to review the design plans for exits for the Project prior to the Construction Date.

(e) Law Enforcement

In order to mitigate potential impacts of the Project on law enforcement resources, the Tribe shall:

(i) adopt rules prohibiting anyone under 21 years of age from gambling;

(ii) adopt employee training programs and policies relating to responsible beverage services;

(iii) conduct background checks of all gaming employees;

(iv) provide a full complement of security personnel at the Project at all times; and

(v) adopt programs and policies which discourage gang members from visiting the Tribe's gaming facilities.

(f) Emergency Medical Services

In order to mitigate potential impacts of the Project on City emergency medical services, the Tribe shall provide (i) emergency medical training to certain members of its security staff, and (ii) emergency medical equipment, including defibrillators, at its gaming facilities.

(g) Solid Waste Disposal

In order to mitigate potential impacts of the Project on solid waste disposal resources, the Tribe shall, to the extent determined by the Tribe to be feasible and commercially reasonable (as determined by the Tribe), implement single stream recycling and green waste diversion. The Tribe shall either retain the services of the City's solid waste disposal franchisee or conduct a competitive bidding process to select the contractor to dispose of solid waste generated at the Reservation.

(h) Uniform Codes

The Tribe shall adopt, and construct the Project in accordance with, standards no less stringent than those set forth in the Uniform Building Code, including all Uniform Fire, Plumbing, Electrical, Mechanical and related Building Codes, as adopted, amended and incorporated into the Rohnert Park Municipal Code as of the Construction Date, (but not including land use, zoning, development or other local laws or standards). The Tribe shall annually certify to the City that it is complying with such building codes and standards. The Tribe shall, to the extent determined by the Tribe to be feasible and commercially reasonable, design buildings using green building techniques, such as natural lighting, solar energy, water conservation, and use of recycled materials.

(i) Storm Water Drainage

In order to mitigate potential impacts of the Project on storm water drainage resources, the Tribe shall obtain a National Pollution Discharge Elimination System permit from the United States Environmental Protection Agency if required by the federal Clean Water Act.

(j) Employee Recruitment

In order to mitigate potential impacts of the Project on local work forces, the Tribe acknowledges it has entered into (i) a Project Labor Agreement with the Sonoma, Lake,

Mendocino County Building & Construction Trades Council, and (ii) a Neutrality and Card Check Agreement with the Hotel Employees and Restaurant Employees International Union AFL-CIO. The Tribe shall implement a hiring preference for Native Americans and for City residents subject to collective bargaining agreements and federal employment laws and regulations.

(k) Rancho Verde Mobile Home Park

In order to mitigate potential impacts of the Project on the Rancho Verde Mobile Home Park, the Tribe shall not purchase the Rancho Verde Mobile Home Park for a period of twenty years from the date of this MOU.

(l) No Golf Course

In order to mitigate potential impacts of the Project on City golf courses, the Tribe shall not construct a golf course on the Reservation until the earlier of (i) twenty years from this date of the MOU, or (ii) the date on which the aggregate number of rounds of golf played on courses located in the City on the date of the MOU exceeds 150,000 rounds in any given calendar year.

6. City Mutual Aid Arrangements

(a) Fire Protection and Emergency Medical Arrangements

The City will honor the Mutual Aid Agreement between the City's Public Safety Department and the Rincon Valley Fire District. Upon the request of the Tribe, the City will enter into a similar Mutual Aid Agreement with the Tribe, subject to any review required under the California Environmental Quality Act or by the Sonoma County Local Agency Formation Commission. The Tribe shall, in any event, make internal arrangements and make appropriate arrangements with the County or a private contractor or contractors to insure that there is an adequate level of fire protection and emergency medical service available on the Reservation.

(b) Law Enforcement Arrangements

The City will honor the Mutual Aid Agreement between the City's Public Safety Department and the Sonoma County Sheriff's Department. Upon the request of the Tribe, the City (or its successor) will enter into a similar Mutual Aid Agreement with the Tribe modified, as necessary, to conform with Subsection 6(c), subject to any review required under the California Environmental Quality Act or by the Sonoma County Local Agency Formation Commission. The Tribe shall, in any event, make internal arrangements and make appropriate arrangements with the County or a private contractor or contractors to insure that there is an adequate level of fire protection and emergency medical service available on the Reservation.

(c) Law Enforcement Authority

Any authority granted to the City law enforcement authorities to enforce laws on the Reservation under a Mutual Aid Agreement with the Sonoma County Sheriff's Department shall be subject to at least the same rules and restraints as any other area within the jurisdiction of such law enforcement authorities. Also, the City's Public Safety Department shall not have authority to enforce on the Reservation any state or local gaming laws or any other State or local civil or criminal laws or regulations which are not enforceable on Indian reservations in California. Nothing in this Subsection or the other provisions of this MOU or any agreement entered into pursuant to this Subsection does or is intended to create City, County, State or other Public Entity jurisdiction over the Tribe or to waive the Tribe's sovereign immunity or any of the rights or remedies available to the Tribe at law or equity for violations of its rights.

(d) Level of Arrangements

With respect to any fire protection, emergency medical or law enforcement response which may be provided by the City directly or indirectly to the Tribe under a Mutual Aid Agreement, the City agrees that the City will provide such response to the Tribe, the Property and the Reservation and the business and persons located thereon which are of the type and at least equal to the level of quality of the response which are provided to non-Indian property located in the City and the persons located thereon.

7. Term

(a) Effective Date

This MOU shall not become effective unless and until the following events have occurred:

(i) this MOU has been approved in writing by legal counsel for the City and ratified by the City Council of the City; and

(ii) this MOU has been approved in writing by legal counsel for the Tribe and ratified by the Tribe's General Council.

(b) Expiration Date

Subject to the early termination provisions of this MOU, this MOU shall expire on the earlier of (i) the twentieth (20) anniversary of the date of this MOU, or (ii) the date of the expiration or termination of the Tribal-State Gaming Compact.

(c) Automatic Extensions

If this MOU has not been terminated prior to its expiration date, this MOU shall be automatically extended for a period of twenty (20) years; provided, however, that, commencing not later than one hundred eighty (180) days prior to such expiration date, the Parties shall meet, confer and renegotiate with respect to the provisions of this MOU which specify the dollar amounts of any recurring contributions made by the Tribe under this MOU. If the Parties are unable to agree upon such new dollar amounts, the then existing dollar amounts shall remain in effect, and, if such dollar amounts are annually adjusted by the CPI Adjustment, they shall continue to be annually adjusted by the CPI Adjustment.

(d) Effect of Expiration or Termination

Upon the expiration or termination of this MOU, the provisions of this MOU shall be of no further force and effect and none of the provisions of this MOU shall survive such expiration or termination; provided, however, that the Tribe shall make contributions pursuant to the terms of this MOU which became due and payable prior to any expiration date; and provided, further, that, if this MOU terminates for reasons unrelated to a default by the City, the Tribe shall make any contributions pursuant to the terms of this MOU which became due and payable prior to such termination date.

8. Termination Events

(a) Automatic Termination

Unless otherwise agreed by the Parties, this MOU shall automatically terminate in the event, and on the date, that:

(i) the Property is transferred to the United States for the benefit of the Tribe but is thereafter no longer "Indian country" within the meaning of federal law or is removed from trust or restricted status such that the Reservation is no longer held in trust by the United States for the benefit of the Tribe; or

(ii) after the Tribal-State Gaming Compact becomes effective, such Tribal-State Gaming Compact terminates for any reason.

(b) Tribal Termination

The Tribe may, at its option, terminate this MOU by written notice to the City in the event that:

(i) the Tribe provides the City with written notice to the effect that the Tribe has decided in good faith by duly executed resolution of the Tribe's General Council to withdraw, or not to submit, any application requesting that the Secretary accept trust title to the Property for the benefit of the Tribe;

(ii) the Reservation is not eligible for gaming under IGRA for any reason; or

(iii) the Management Agreement between the Tribe and SC Sonoma Management, LLC is not approved by the Chairman of the NIGC for any reason;

9. Suspension Events

If, due to Force Majeure (as hereinafter defined), an act of God, valid business considerations, the events listed in Section 10 (a) or any other reason, a material portion of the gaming operations previously conducted by the Tribe on the Reservation are suspended or terminated, the Tribe's obligations to make recurring contributions and other contributions pursuant to Sections 3 or 4 of this MOU shall be suspended as of the date of such suspension or termination until such time as such gaming operations are resumed; provided, however, that, in the event any of the projects contemplated by Section 3(b) or 3(c) is in the process of being constructed at the time of such suspension or termination, the Tribe shall be required to continue the contributions contemplated by such subsections. For the purposes of this Section, the term Force Majeure shall include, without limitations, the following: earthquake; flood; fire; other natural disasters; changes in law, regulation or governmental policy that has a material adverse affect on the Project; riots; war; or terrorism. Nothing in this Section shall impact the Tribe's liability for contributions or other payments which became due and payable prior to the date such gaming operations are suspended or terminated.

10. Renegotiation Provision

(a) Renegotiation Events

The Tribe may request that the City renegotiate one or more of the provisions of this MOU if there is a change in law, facts, assumptions or other circumstances which has a significant and adverse financial impact on the Tribe or directly or indirectly relates to the assumptions the Tribe made in entering into this MOU or Tribe's expectations with respect to the Project or this MOU. Such changes shall be deemed to include the following:

(i) any change to the Restoration Act which has a significant and adverse financial impact on the Tribe;

(ii) any change in state or federal constitutions, laws, rules or regulations, or the construction or interpretation thereof, relating to IGRA or gaming on

Indian lands, or ending the prohibition on Class III gaming (as defined in IGRA) or the operation of gaming devices by non-Indians in California;

(iii) a reduction in the scope of gaming permitted on the Reservation, whether pursuant to a change in federal, state or local constitutions, laws, rules or regulations, the Tribal-State Gaming Compact or otherwise;

(iv) there is no Tribal-State Gaming Compact in effect as of the Opening Date or the Tribal-State Gaming Compact, as amended or interpreted from time to time, (A) does not authorize the Tribe to conduct the scope of Class III (as defined in IGRA) gaming activities authorized by the State 1999 model Tribal-State gaming compact, or (B) does not authorize the Tribe to operate 2,000 gaming devices without licenses or other conditions (other than payment obligations); and

(v) a change in the financial obligations of the Tribe to the State pursuant to the Tribal-State Gaming Compact (using the State 1999 model Tribal-State gaming compact as the baseline reference document).

(b) Renegotiation Procedures

All requests by the Tribe to renegotiate or amend this MOU shall be by written notice addressed to the City and shall include the provisions of this MOU to be negotiated. Upon receipt of such notice, the City shall be obligated to renegotiate this MOU in good faith. The Parties shall confer promptly and determine a schedule for commencing negotiations within fifteen (15) days of the Tribe's notice. The Parties are hereby authorized to designate the person or agency responsible for conducting the negotiations, and shall execute any documents necessary to do so. The purpose of the negotiations will be to renegotiate the provisions of this MOU in good faith so that the Tribe will retain the rights and maintain substantially the same economic obligations to the City, the County, the State and other Public Entities in the aggregate as are set forth in this MOU and the terms of the other agreements as contemplated as of the date of this MOU to be entered into between the Tribe and other Public Entities.

11. Severability

If any provision of this MOU is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, this MOU shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this MOU, and the remaining provisions of this MOU shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this MOU. The Parties shall endeavor in good faith negotiations to replace the prohibited or unenforceable provision with a valid provision, with the economic effect of which comes as close as possible to that of the prohibited or

unenforceable provision. Such negotiations shall be conducted pursuant to the provisions of Subsection 10(b) of this MOU.

12. Scope

This MOU is intended to apply and shall be construed to apply solely to the Property, and after the Trust Acquisition Date, solely to the Reservation, and shall not be construed to apply to any other property.

13. Dispute Resolution Provisions

(a) Dispute Resolution

In an effort to foster good government-to-government relationships and to assure that the Tribe is not unreasonably prevented from engaging in gaming and other commercial activities and benefiting therefrom, the Parties agree to the dispute resolution procedures set forth in this Section.

(b) Meeting

The Parties shall make their best efforts to resolve claims of breach of this MOU by good faith negotiations whenever possible. Any such disputes between the Parties shall first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation in the efficiency in the administration of the terms, provisions and conditions of this MOU as follows:

(i) A Party shall give the other Party, as soon as possible after the event giving rise to the dispute, written notice setting forth, with specificity, the claims of breach of this MOU.

(ii) The Parties shall meet and confer in a good faith attempt to resolve such dispute through negotiation not later than 10 days after receipt the of notice, unless the Parties agree in writing to an extension of time.

(c) Arbitration

If such dispute is not resolved to the satisfaction of the Parties within thirty (30) calendar days after the first meeting, then the Parties may seek to have the dispute resolved by arbitration in accordance with the following procedures:

(i) Upon the request of a Party in writing, the dispute shall be submitted to binding arbitration in accordance with this Section.

(ii) The disputes to be submitted to arbitration shall be limited to claims of breach of this MOU and no other disputes.

(iii) In the event there is any dispute as to whether a matter is subject to the arbitration provisions of this MOU, or any dispute concerning the scope of the matter or matters to be arbitrated, the disagreement as to whether the dispute is subject to the arbitration provisions of this MOU or the scope of such arbitration shall be resolved by the courts referenced in Subsection (d) of this Section.

(iv) The arbitration shall be administered by three (3) arbitrators. The Tribe and the City shall each select one arbitrator and those two arbitrators shall select the third arbitrator. All arbitrators shall be generally familiar with federal Indian law, California municipal law, and commercial business transactions.

(v) The arbitration shall be held in San Francisco or at such other location as is mutually agreeable to the Parties.

(vi) The arbitration shall be administered in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified by the provisions of this MOU.

(vii) The provisions of Section 1283.05 of the California Code of Civil Procedure shall apply; provided that no discovery authorized by that section may be conducted without leave of the arbitrators.

(viii) Each side shall bear its own costs, attorneys' fees, and one-half the costs and expenses of the arbitrators.

(ix) Awards may be made by the arbitrators only for monetary amounts or damages and only to the extent permitted in Subsection 14(b).

(x) The decision of the arbitrators shall be in writing and shall give reasons for the decision.

(d) Confirmation of Awards

Any Party to an arbitration in which an award has been made pursuant to this Section may petition the federal District Court for the Northern District of California or, if such Court declines jurisdiction, the State Superior Court for Sonoma County to confirm the award. The Parties expressly consent to be sued in such Courts for the purposes of confirmation of such an award. An award shall be confirmed, provided that:

(i) The award is limited to the purposes of arbitration stated in this Section.

(ii) No monetary award or damages are awarded except for decisions which require the payment of sums pursuant to breaches of obligations of the Parties under this MOU and which are not inconsistent with the Tribe's limited waiver of sovereign immunity as set forth in Subsection 15(b) of this MOU.

(iii) No person or entity other than the Parties (or the Developer) is party to the action, unless failure to join a third party would deprive the court of jurisdiction; provided that nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Parties in respect to any such third party (other than the Developer).

If an award is confirmed, judgment shall be entered in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action; and may be enforced like any other judgment of the court in which it is entered.

(e) Intervention

In the event of intervention by any additional party (other than Developer) into any action referred to in Subsection 13(f) without the consent of the Parties, the waivers of either the Tribe or the City provided for herein may be revoked, unless joinder is required to preserve the court's jurisdiction; provided, however, that nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Tribe or the City in respect to any such third party (other than the Developer).

(f) Actions

The express waivers and consents provided for in this Section and Section 14 shall only extend to the following: civil actions consistent with this MOU to compel arbitration, determine whether a matter is subject to arbitration or determine the scope of the arbitration, any arbitration proceeding as provided herein, any action to confirm or enforce any judgment or arbitration award as provided herein, and any appellate proceedings emanating from a matter in which an immunity waiver has been granted. Except as stated herein or elsewhere in this MOU, no other waivers or consents to be sued, either express or implied, are granted by either Party.

(g) Other Dispute Resolutions

This Section may not be construed to waive, limit, or restrict the ability of the Parties to pursue, by mutual agreement, any other method of dispute resolution including, but not limited to, mediation or utilization of a technical advisor to the Parties; provided, however, that no Party is under an obligation to agree to such alternative method of dispute resolution.

(h) Confidentiality

The Parties agree that any dispute resolution meetings or communications, arbitration proceedings, or agreements among the Parties settling or otherwise relating to any claims of breach of this MOU or otherwise shall be and remain confidential to the extent not prohibited by applicable law.

(i) Third Party Rights

Developer shall be deemed to have the rights of a Party for the purposes of this Section, including, without limitation, the right to initiate or participate in a dispute resolution meeting or an arbitration proceeding or to confirm or enforce any award.

14. Limited Waiver of Sovereign Immunity

(a) Waiver

Subject to the provisions of this Section, each of the Parties expressly and irrevocably waives sovereign immunity (and any defenses based thereon) in favor of the other Party and the Developer (but not as to any other person or entity) as to any civil action relating to claims of breach of this MOU and not as to any other actions, matters or disputes.

(b) Limitations on Tribe's Waiver

The Tribe's waiver of sovereign immunity is specifically limited to permitting, and does permit, the awards referenced in Subsection 13(c)(ix) and actions referenced in Subsection 13(f). Notwithstanding the foregoing or other provisions of this MOU, the Tribe does not waive its sovereign immunity to permit any monetary award or damages against, and the arbitrators and the courts will have no authority or jurisdiction to issue any monetary award or damages or order the execution or enforcement of any monetary award or damages against, any assets or revenues of the Tribe except for the Tribe's share of the Net Revenues distributed or to be distributed to the Tribe by the commercial enterprises included within the Project and located on the Reservation. The Tribe does not waive its sovereign immunity with respect to actions by third parties or disputes between the Tribe and the City which are not claims of breach of this MOU.

15. Third Party Beneficiaries

Developer is an intended third party beneficiary of this MOU and may bring an action under or otherwise enforce this MOU. Without limitation of the generality of the foregoing, the City acknowledges and agrees that Developer is not a party to this MOU and does not have any obligations or liabilities under or with respect to this MOU. Otherwise, there are no intended third party beneficiaries of this MOU, and this MOU is

not intended to, and will not be construed to, create any right on the part of any third party to bring any action or to otherwise enforce any of its terms.

16. Binding MOU

This MOU is intended to be, and shall be construed to be, binding upon the City. The terms of this MOU will be binding on all successors in interest of each Party.

17. Notice

All notices required by this MOU will be deemed to have been given when made in writing and delivered or mailed to the respective Parties and their representatives at their respective addresses as set forth below or such other address as they may provide to the other Parties from time to time:

For the Tribe:

Federated Indians of the Graton Rancheria
P.O. Box 14428
Santa Rosa, CA 95402
Telephone:
Fax:

With copies to:

California Indian Legal Services
510 - 16th Street, Fourth Floor
Oakland, CA 94612
ATTN: John Maier, Esq.
Telephone: (510) 835-0284
Fax: (510) 835-8045

And

SC Sonoma Development, LLC
c/o Station Casinos, Inc.
2411 W. Sahara Avenue
Las Vegas, Nevada 89012
ATTN: General Counsel
Telephone: (702) 367-2458
Fax: (702) 253-2926

For the City:

City of Rohnert Park
6750 Commerce Boulevard
Rohnert Park, CA 94928-2486
ATTN: City Manager
Telephone: (707) 588-2226
Fax: (707) 588-2263

18. Governing Law

This MOU shall be governed by and construed in accordance with the laws of the State of California.

19. Construction of MOU

This MOU, together with all Exhibits hereto, constitutes the entire agreement among the Parties relating to the subject matter hereof and supersedes all prior negotiations, representations, or other agreements, whether written or oral. In the event of a dispute between or among the Parties as to the language of this MOU or the construction or meaning of any term hereof, this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against or in favor of any Party to this MOU. The headings contained in this MOU are for convenience of reference only and shall not effect the construction or interpretation hereof.

Tribal Sovereignty

(a) City Acknowledgements

The City acknowledges and agrees that the Tribe:

(i) is a federally recognized Indian tribe and an independent sovereign nation;

(ii) is not subject to the jurisdiction of the City or its laws, rules, regulations and ordinances;

(iii) has the right, pursuant to the Restoration Act, to have the Property taken into trust by the United States for the benefit of the Tribe; and

(iv) has the right, once the Property is taken into trust, to establish a gaming facility on the Reservation in accordance with IGRA.

(b) Tribal Acknowledgements

The Tribe nevertheless desires to establish a harmonious government-to-government relationship with the City, the County and other local governmental authorities. In furtherance of that objective, the Tribe is willing to agree as a voluntary contractual matter to the terms and conditions of this MOU.

(c) No Submission to Jurisdiction

However, notwithstanding the language of any other provision of this MOU, the Parties agree that nothing in this MOU is intended to constitute, or shall be construed as constituting, a submission by the Tribe to the jurisdiction of the City, its respective officials, officers or inspectors or its respective laws, rules, regulations, ordinances or (except as set forth in Section 13(d) courts.

21. City Non-Opposition

(a) Non-Opposition Generally

In consideration of the covenants of the Tribe as set forth in this MOU, the City agrees to not oppose any efforts by the Tribe to cause the Secretary to accept trust title to the Property for the benefit of the Tribe and to otherwise develop the Project.

(b) Specific Examples of Non-Opposition

Without limiting the generality of the foregoing, the City agree to:

(i) sign letters, execute and deliver such agreements and take such other action as the Tribe may reasonably request from time to time in furtherance of the foregoing objectives and consistent with this MOU;

(ii) upon the request of the Tribe, schedule meetings with and meet with the Tribe and its representatives and designees; and

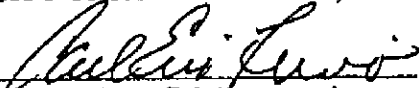
(iii) take such other appropriate actions as the Tribe may reasonably request consistent with this Section relating to the efforts of the Tribe identified in this MOU.

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IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first set forth above.

THE CITY OF ROHNERT PARK, CALIFORNIA

Date: October 14, 2003

By: 

Name: CARL ERIC LEIVO

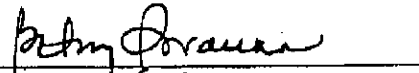
Its: CITY MANAGER

Per Resolution No. 2003-233 adopted by the City Council on October 14, 2003

AS TO FORM ^{plus}

APPROVED BY CITY ATTORNEY FOR THE CITY:

Date: October 14, 2003

By: 

Name: TREVA STRAUSS

Its: CITY ATTORNEY

THE FEDERATED INDIANS OF THE GRATON RANCHERIA

Date: October 14, 2003

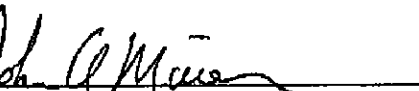
By: 

Greg Sarris

Chairperson

APPROVED BY LEGAL COUNSEL FOR THE TRIBE:

Date: October 14, 2003

By: 

John Maier, Esq.

California Indian Legal Services

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain real property situated in the Unincorporated Area, County of Sonoma, State of California, described as follows:

PARCEL ONE:

Farm No. 74, and Farm No. 75, as shown upon the Plan of Subdivision of Santa Rosa Farms No. 2, Sonoma County, California, filed in the Office of the County Recorder of Sonoma County, California, on March 7, 1910 in Book 21 of Maps, Page 14, Sonoma County Records.

APN: 045-072-006

ARB: None Shown

PARCEL TWO:

Farms 1, 2 and "A", 21, 22, 23, 24, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 69, 70, 71, 72, 73, 76, 99, 100 and 101, so numbered and designated upon that certain Map entitled "Subdivision of Santa Rosa Farms No. 2, Sonoma County, California", filed March 7, 1910 in Book 21 of Maps, Page 14, Sonoma County Records.

EXCEPTING THEREFROM those portions of Farms 22, 42, 43, 44, 45, 46, 47 and 52 granted to The Sonoma County Flood Control and Water Conservation District in Deed dated July 11, 1963 and recorded November 8, 1963 in Book 2001 of Official Records, Page 191, under Recorder's Serial No. H-63821, Sonoma County Records.

ALSO EXCEPTING THEREFROM all that portion as contained in the Deed to The County of Sonoma recorded September 14, 1994, as Document No. 1994 0106342, Sonoma County Records.

ALSO EXCEPTING THEREFROM all that portion conveyed to The County of Sonoma by Deed recorded November 17, 1994 under Document No. 1994 0128597, Sonoma County Records.

APN: 045-071-002, 003, 004, 005, 006, 045-072-012, 013, 014, 046-021-024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 134-261-003, 034-264-003, 005, 006, 007, 008, 134-267-001 & 005 ARB: None Shown

PARCEL THREE:

A Tract of land, being a portion of the Rancho Llano de Santa Rosa, and commencing on the boundary line of said Rancho on the line between Section 21 and 22, in Township 6 North, Range 8 West, Mount Diablo Base & Meridian, at a point in the center of the County Road known as the Santa Rosa and Stony Point Road, from which point the post for the railing of the bridge, across the Laguna and standing on the Southeast corner of the same, is North 31° West, 13 links distant; thence from said point of beginning, North 89° 30' East, 11.92 chains, South 39° 05' East, 2.61 chains, South 53° East, 1.36 chains, South 64° East, 1.23 chains,

South 77° 15' East, 2.62 chains, South 88° 05' East, 3.94 chains, North 4° 15' East, 1.43 chains, South 88° East, 2.03 chains, South 56° East, 2.44 chains, North 87° ,15' East, 22.62 chains to the Northwest boundary line of the Cotati Rancho; thence along said line, North 29° 15' East, 39.44 chains; thence leaving said line, West 67.92 chains to the center of the aforesaid Road and Section line; thence South, 32.18 chains to the point of beginning. Magnetic Variation 17° East.

EXCEPTING THEREFROM those portions of land described in the Deeds from Manuel T. Pimentel, et al, to the Sonoma County Flood Control and Water Conservation District, recorded August 16, 1961 in Book 1840 of Official Records, Page 280, Serial No. G-60050, Sonoma County Records, and recorded September 24, 1963 in Book 1989 of Official Records, Page 575, Serial No. H-56600, Sonoma County Records.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed from Mary C. Pimentel, et al, to the Sonoma County Flood Control and Water Conservation District, recorded February 11, 1966 in Book 2187 of Official Records, Page 957, Serial No. J-83549, Sonoma County Records.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed to the City of Rohnert Park, recorded January 11, 1989 as Document No. 89002750 of Official Records of Sonoma County.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed to the County of Sonoma, recorded May 17, 1996 as Document No. 1996 0044116 of Official Records of Sonoma County.

PARCEL FOUR:

An easement for cattle and agricultural equipment crossing, as described in the Deed from the Sonoma County Flood Control and Water Conservation District to Manuel L. Pimentel and Mary C. Pimentel, recorded August 15, 1961 in Book 1840 of Official Records, Page 284, Serial No. G-60051, Sonoma County Records.

PARCEL FIVE:

An easement for cattle and agricultural equipment crossing, as described in the Deed from the Sonoma County Flood Control and Water Conservation District to Manuel L. Pimentel and Mary C. Pimentel, recorded August 15, 1961 in Book 1840 of Official Records, Page 288, Serial No. Serial No. G-60052, Sonoma County Records.

APN: AP46021-20 & 21 & 39 & 40

ARB: None Shown



March 30, 2004

Gregory A. Nardin
Mayor

Annie L. Spradlin
Vice-Mayor

Armando F. Flores
Councilmember

Jake Mackenzie
Councilmember

Vicki Vicki-Martinez
Councilmember

Carl Eric Leivo
City Manager

Steve Donley
Assistant City Manager

Gabrielle Whelan
Interim City Attorney

The Honorable Arnold Schwarzenegger
Governor
State of California
Sacramento, CA 95814

RE: Compact for the Federated Indians of Graton Rancheria

Dear Governor Schwarzenegger:

As the Mayor from the City closest to the site of the Federated Indians of Graton Rancheria's proposed gaming facility, I respectfully urge you to negotiate and sign a Tribal-State Gaming Compact with the Federated Indians of the Graton Rancheria (FIGR).

Last year, our City Council voted 4-1 to enter into a *Memorandum of Understanding (MOU)* with the FIGR. Under the terms of the MOU, the Tribe will make payments totaling \$200 million over 20 years to the City, School District, and local non-profits to be used to mitigate potential impacts from its resort/casino. Monies provided under this MOU will be used to build a new public safety facility to help us fight crime, gang activity, and drugs. There will be funds to add workforce housing, purchase additional open space for parks and recreation, and to fund traffic improvements. Additionally, the Tribe has agreed to build its facility without using the public water or wastewater infrastructure and to build and operate the entire facility using union labor.

The MOU is unprecedented in California.

The FIGR project will create over 2,000 well-paid union jobs with benefits. This is crucially important in our community where Agilent Technologies has announced plans to close a plant that once employed 4,000. Many of these jobs have been moved to Malaysia.

We believe our relationship with the Tribe should be used as model for other municipalities as they cope with the impacts from Indian gaming facilities. From the very beginning, Greg Sarris, the Tribal Chair, and the rest of the Tribal Council, have been honest and gracious brokers, always willing to work with us in order to reach a mutually acceptable solution. We recognize their right to pursue economic self-reliance but we also believe strongly that we need to receive funds to help us mitigate any impacts. With our MOU, we reached the right balance.


Governor Schwarzenegger
March 30, 2004
Page 2

There exist many viewpoints regarding the FIGR project among our citizens. Let me assure you that there exists a large portion of our citizens that supports the project, recognize the Tribe's right to self-determination, and think that the City Council did the right thing to enter into a MOU with the FIGR.

If not in Rohnert Park, where could the FIGR undertake their project? No matter which site the Tribe selects for their project in Sonoma and Marin Counties, there will be strenuous opposition. It is a tradition for many in the North Bay to oppose development of any sort. The Indian gaming project should proceed on the site where the Tribe and local government have respectfully negotiated the best possible agreement to address the potential impacts of the project.

For all these reasons, I strongly support the Graton Rancheria's efforts to gain a Tribal-State Gaming Compact and respectfully urge you to complete these negotiations as soon as possible.

Sincerely,


Gregory A. Nordin
Mayor

Cc: Mr. Daniel Kolkey, Lead Tribal Negotiator
Mr. Peter Siggins, Legal Affairs Secretary
Members of the City Council

Sonoma County MOU

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made effective as of November 1, 2004, by and between the County of Sonoma, California (the "County"), and the Federated Indians of Graton Rancheria, a federally recognized Indian tribe (the "Tribe"). (The capitalized terms not otherwise defined herein shall have the meanings set forth in Section 1 below.)

RECITALS

WHEREAS, the Tribe is an Indian tribe of over 1,000 members who are comprised of descendants of the Coast Miwok and Southern Pomo Indians whose aboriginal territory included Sonoma County; and

WHEREAS, in 1966, the federal government terminated its relationship with the Tribe and transferred title to the lands known as the Graton Rancheria, located near the Sonoma County community of Graton, which the federal government had held in trust for the benefit of the Tribe; and

WHEREAS, the Tribe has been landless since that time; and

WHEREAS, in 2000, Congress restored the federal government's government-to-government relationship with the Tribe pursuant to the Graton Rancheria Restoration Act (Pub. L. 106-568, 25 U.S.C. § 1300n et. seq.); and

WHEREAS, the Tribe's Restoration Act provides that the Secretary of the Interior shall accept into trust for the benefit of the Tribe land located in Marin or Sonoma County and that such land, once taken into trust for the benefit of the Tribe, shall be the Tribe's reservation; and

WHEREAS, the Tribe has currently identified property, which is located approximately 11 miles from the Tribe's former Graton Rancheria in an unincorporated area of Sonoma County adjacent to the western boundary of the City of Rohnert Park Urban Growth Boundary; and

WHEREAS, the Tribe intends to submit an application to the Secretary requesting that the United States take title to the identified property in trust for the benefit of the Tribe as part of the Tribe's new reservation, and further request that the Secretary or the National Indian Gaming Commission ("NIGC") determine that the Reservation is eligible for gaming under the Indian Gaming Regulatory Act; and

WHEREAS, the Tribe intends to build a casino and hotel resort on a portion of its Reservation; and

WHEREAS, prior to constructing the gaming facility, the Indian Gaming Regulatory Act provides that the Tribe must first obtain (i) approval of its management contract from the NIGC and (ii) a Tribal-State Gaming Compact from the State of California; and

WHEREAS, the NIGC must comply with the National Environmental Policy Act in connection with its approval of the Tribe's management contract; and

WHEREAS, the County urged the Tribe to request the NIGC to prepare an Environmental Impact Statement ("EIS")(as distinguished from a less detailed Environment Assessment) reviewing the Gaming Project and, in accordance with the Tribe's and County's request, the NIGC, acting as lead agency, is currently preparing an EIS; and

WHEREAS, the County petitioned the NIGC to allow the County to officially participate in the environmental review of the Gaming Project to ensure that the EIS thoroughly identified environmental impacts, potential alternatives and comprehensive mitigation measures relating to the Gaming Project; and

WHEREAS, on March 17, 2004, the NIGC approved a Memorandum of Understanding for the County to be designated an official participating agency in the NEPA process. The NIGC Memorandum of Understanding affords the County an opportunity to maximize its input into the NEPA process. The NIGC Memorandum of Understanding affirmed, however, that the County's participation in the NEPA process neither implied the County's endorsement of the proposed project nor precluded the County from later challenging the adequacy of the EIS; and

WHEREAS, after conducting public hearings, the NIGC issued the final Scoping Report for the EIS in August 2004 based on comments received from the public and local jurisdictions, and the NIGC expects to issue a Draft EIS in early 2005; and

WHEREAS, each of the new and amended compacts negotiated by the Governor in 2004 includes environmental provisions which provide that, prior to the commencement of certain activities on its reservation, including the construction of new casino facilities, the tribe shall (i) prepare a tribal environmental impact report and (ii) negotiate an intergovernmental agreement between the applicable tribe and the applicable county or city to mitigate certain off-reservation impacts identified in the environmental analysis contained in the tribal environmental impact report; and

WHEREAS, the 2004 Compacts require the applicable tribe and the applicable county or city to enter into an arbitration process to resolve any disagreement regarding the provisions which should be included in the intergovernmental agreement; and

WHEREAS, the County and the Tribe expect that, unless voters approve Proposition 70 in the November 2004 election, any Compact which may be negotiated between the Tribe and the State may include environmental provisions similar to those which are included in the 2004 Compacts; and

WHEREAS, the County therefore believes that the gaming facility will be subject to the preparation of a federal EIS pursuant to NEPA and a tribal environmental impact report pursuant to the Compact; and

WHEREAS, the County recognizes that the Tribe, in preparing its environmental impact report, and consistent with the requirements of the 2004 Compacts, will utilize much of the analysis prepared by the NIGC in its EIS, and that this extensive body of environmental data will be made available to the County for its review and consideration; and

WHEREAS, the County has an interest in ensuring that off-Reservation impacts of the Gaming Project are adequately mitigated; and

WHEREAS, the County and Tribe are willing to negotiate an Intergovernmental Agreement to mitigate off-Reservation impacts of the Gaming Project upon publication of the Draft EIS; and

WHEREAS, such an Intergovernmental Agreement is necessary to make enforceable certain environmental mitigation measures identified in the EIS which are not otherwise enforceable by other Public Entities; and

WHEREAS, once the Secretary accepts land into trust for the benefit of the Tribe and establishes the Reservation, the County will have no authority to exercise land use jurisdiction over the Reservation or the Gaming Project; and

WHEREAS, the County does not have legal authority to deliberate on, approve, disapprove, or otherwise exercise judgment regarding the Gaming Project; and

WHEREAS, the County is therefore not deliberating on, approving, supporting, or otherwise exercising judgment regarding the Gaming Project by entering into this MOU; and

WHEREAS, the County and Tribe are committed to continuing their efforts to establish a respectful, long-term government-to-government relationship by meeting and conferring in good faith on issues of concern regarding the Gaming Project; and

WHEREAS, the purpose of this MOU is to establish a legally enforceable framework for negotiating and entering into an Intergovernmental Agreement to mitigate off-Reservation impacts of the Gaming Project; and

WHEREAS, this MOU does not limit the Tribe's or the County's remedies under applicable law to address the adequacy or appropriateness of the environmental analysis contained in the EIS.

NOW, THEREFORE, the Parties hereby agree as follows:

1.0. Definitions. The terms not defined elsewhere in this MOU shall have the following meanings:

"2004 Compacts" mean the Tribal-State Gaming Compacts or amendments thereto signed by the Governor of the State in June and August 2004.

"CEQA" means the California Environmental Quality Act (California Government Code § 21000 et. seq.) and the regulations or guidelines promulgated thereunder, as the same may be amended and modified from time to time.

"Compact" means the Tribal-State Gaming Compact governing the conduct of gaming activities to be negotiated between the Tribe and the State pursuant IGRA.

"Comprehensive Intergovernmental Agreement" means a complete and final Intergovernmental Agreement between the Parties which is consistent with Section 3.0 and which covers all issues which either Party intends to have covered in an Intergovernmental Agreement.

"County" means the County of Sonoma, California, a political subdivision of the State.

"County Mitigation Measure" means any measure taken by the Tribe to mitigate significant environmental effects of the Gaming Project on the County, that are within its jurisdiction or primary responsibility, as more fully described in section 3.0 of this MOU.

"Draft EIS" means a draft EIS prepared by the NIGC or its contractors regarding the Gaming Project pursuant to NEPA.

"EIS" or "Environmental Impact Statement" means an environmental impact statement prepared by the NIGC or its contractors regarding the Gaming Project pursuant to NEPA.

"Federal and State Actions" mean (i) the consummation of the Trust Acquisition, (ii) the NIGC approval of the Tribe's gaming ordinance and management contract, (iii) the negotiation and execution of the Compact by the State Governor, ratification of the Compact by the State legislature and approval of the Compact by the Secretary, and (iv) the issuance or completion by federal, state or regional Public Entities of approvals, permits, licenses, certifications, opinions or consultations required in connection with the Trust Acquisition or the Gaming Project.

"Final EIS" means a final EIS prepared by the NIGC or its contractors regarding the Gaming Project pursuant to NEPA.

"Gaming Project" means the development (including construction and operation) of a casino and hotel resort with ancillary uses on the Reservation as described in the Draft EIS.

"IGRA" means the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. § 1166 et seq. and 25 U.S.C. § 2701 et seq.), and any amendments thereto, and regulations promulgated thereunder, as the same may be amended or modified from time to time.

"Intergovernmental Agreement" means any written and enforceable interim or comprehensive intergovernmental agreement or agreements entered into between the Tribe and the County pursuant to, or as contemplated by, this MOU.

"MOU" means this Memorandum of Understanding.

"NEPA" means the federal National Environmental Policy Act of 1970, as amended (42 U.S.C. §§ 4371 et seq.), and the regulations promulgated thereunder, as the same may be amended or modified from time to time (at 40 C.F.R. 1500 et. seq.).

"NIGC" means the National Indian Gaming Commission.

"Parties" mean the Tribe and the County.

"Property" means certain parcels totaling approximately 363 acres of land which are located within the unincorporated area of the County and adjacent to the Urban Growth Boundary of the City of Rohnert Park (as it exists on the date of this MOU) and which are identified by the legal description set forth on Exhibit A hereto, or any portion of such land. Property may also include such other land which the Tribe, with the concurrence of the County, may request the Secretary to take into trust for the benefit of the Tribe.

"Public Entity" means the federal government, the State, any county, city, district, public authority, public agency and any other political subdivision or public corporation thereof, including, without limitation, the U.S. Department of Interior, the U.S. Environmental Protection Agency, the U.S. Army Corp of Engineers, the U.S. Fish & Wildlife Service, Department of Transportation, the California Department of Fish & Game, the California State Historic Preservation Office, the Rincon Valley Fire District, Rancho Adobe Fire District, the Sonoma County Water Agency, the North Coast Regional Water Quality Control Board and the Sonoma County Local Agency Formation Commission.

"Reservation" means, after the Trust Acquisition, that portion of the Property which is taken into trust by the Secretary for the benefit of the Tribe.

"Restoration Act" means the federal Graton Rancheria Restoration Act (Pub. L. 106-568, 25 U.S.C. § 1300n et. seq.).

"Secretary" means the Secretary of the United States Department of the Interior.

"State" means the State of California.

"Tribe" means the Federated Indians of Graton Rancheria, a federally recognized Indian tribe listed in the Federal Register as Graton Rancheria, California.

"Trust Acquisition" means (i) the acquisition by the United States of title to the Property in trust for the benefit of the Tribe, and (ii) the determination by the Secretary or the NIGC that the Reservation is eligible for gaming pursuant to the requirements of IGRA.

2.0. Environmental Review

2.1. Preparation of an EIS. The Parties acknowledge their understanding that (i) the NIGC is required to comply with NEPA in connection with the NIGC's decision whether to approve the Tribe's management contract with a gaming manager, (ii) the NIGC has accepted the Tribe's and County's request to prepare an EIS, as distinguished from a less comprehensive environmental assessment, (iii) the NIGC has provided, and will continue to provide, public notices relating to the preparation of an EIS in accordance with NEPA, (iv) the County requested, and the NIGC agreed, to allow the County to officially participate in the NEPA process, (v) the Bureau of Indian Affairs and the Army Corps of Engineers are also participating in the NEPA process, (vi) the NIGC will provide the County and the public, as part of NIGC's efforts to fulfill its NEPA obligations, with the opportunity to comment on the Draft EIS, and (vii) the County's opportunity to comment on the Draft EIS will include the opportunity to comment on the adequacy of any proposed mitigation measures intended to mitigate potential impacts of the Gaming Project.

2.2. CEQA Matters

(a) The Trust Acquisition, the Federal and State Actions, the Gaming Project and the approval, execution, delivery, performance and consummation of the transactions contemplated by this MOU are not activities that, within the meaning of CEQA (i) are directly undertaken by the County and the surrounding communities, (ii) are supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the County or the surrounding communities, or (iii) involve the issuance of a lease, permit, license, certificate or other entitlement for use by the County or the surrounding communities.

(b) By approving, executing, delivering, performing and consummating this MOU and transactions contemplated by this MOU, the County does not commit itself to (i) issue any lease, permit, license, certificate or entitlement for use, (ii) develop, construct or improve any facilities or cause any other physical changes to the environment, or (iii) approve, shape, deliberate on or otherwise exercise judgment over the Trust Acquisition, the Federal and State Actions or the Gaming Project.

(c) The Trust Acquisition, the Federal and State Actions, the Gaming Project, as well as the approval, execution and delivery of this MOU, and the performance and consummation of the transactions contemplated by this MOU, are not "projects" (as such term is defined in CEQA) of the County.

(d) This MOU establishes a procedure for negotiating a government payment and funding mechanism and does not commit the County to make any physical change in the environment.

(e) The County does not, in any event, have sufficient information as of the date of this MOU to make any commitment to the Tribe to make any physical changes in the environment.

(f) If and to the extent the County hereafter determines that it is required to comply with CEQA with respect to any "project" (as such term is defined in CEQA) which causes a physical change in the environment, the County fully intends to comply with CEQA at such time.

3.0. Off-Reservation Impacts

3.1. Intergovernmental Agreement

(a) Negotiation of Intergovernmental Agreement. Not later than thirty (30) days following the publication of the Draft EIS, the Parties shall commence diligent and good faith negotiations and shall otherwise use their respective best efforts to finalize, approve, execute and deliver interim Intergovernmental Agreements and a Comprehensive Intergovernmental Agreement to meet the objectives described in this Section 3.0.

(b) Scope of Mitigation. The primary objective of the Intergovernmental Agreement is to provide for binding and enforceable agreements which insure the timely mitigation of significant environmental effects of the Gaming Project which:

- (i) are primarily attributable to the Gaming Project;
- (ii) occur outside of the geographic boundaries of the Tribe's Reservation and within the geographic boundaries of the County. Notwithstanding the foregoing, the Tribe agrees to enter into an Intergovernmental Agreement with the County regarding any loss of open space, community separator, and Williamson Act issues;
- (iii) are within the primary jurisdiction or responsibility of the County;
- (iv) are not within the primary jurisdiction or responsibility of some other Public Entity or Entities (including by way of example, and not by way of limitation, the Rincon Valley Fire District); and
- (v) are "significant" (within the meaning of NEPA, including 40 C.F.R. Section 1508.13), as distinguished from insignificant.

(c) Mitigation Measures. A further objective of the Intergovernmental Agreements is to provide for mitigation measures which would mitigate any significant impacts on the off-Reservation environment with regard to some or all of the following resources or topics: Agricultural resources, air quality, biological resources, geology and soils, land use, hazardous materials, noise, public services, public transportation, roadway infrastructure, socioeconomic effects, traffic circulation, traffic safety, visual resources, wastewater, water drainage and water supply. Such measures may include payments by the Tribe to the County to the extent not otherwise compensated for through other County Mitigation Measures for the following:

- (i) Reasonable and fair share compensation to the County for specific public services to be provided by the County to the Tribe relating to the Tribe's gaming operation;
- (ii) Reasonable and fair share contributions for programs designed to address gambling addiction;
- (iii) Reasonable and fair share compensation for mitigation of any effect on public safety and criminal justice system impacts on the County attributable to the Gaming Project, including any reasonable and fair share contributions to the County; and
- (iv) Reasonable and fair share contributions to the County for lost tax, fee, assessments, or other revenue to the County related to the Trust Acquisition.

(d) Accounting for Agreements and Effects. An objective of the Intergovernmental Agreement is to take into account, and give the Tribe appropriate financial and other credit for:

- (i) County Mitigation Measures contained in any agreement or other arrangement between the Tribe and any other Public Entity or non-profit corporation;
- (ii) County Mitigation Measures which the Tribe is obligated to implement pursuant to any license, permit, opinion, consultation, agreement or other arrangement which the Tribe has obtained or is required to obtain, such as, by way of example and not limitation, (A) any National Pollutant Discharge Elimination System (NPDES) permits to be issued by the U.S. Environmental Protection Agency pursuant to the federal Clean Water Act, (B) any permits to be issued by the U.S. Army Corp of Engineers pursuant to the federal Clean Water Act, (C) any measures required by the U.S. Fish & Wildlife Service pursuant to the federal Endangered Species Act, and (D) acquisitions of land, acquisitions of options to purchase land, and contributions of funds for acquisitions of lands or options to purchase land which are made by the Tribe or by third parties on behalf of the Tribe for the purpose of mitigating environmental effects of the Gaming Project on the County (to the extent they are proximately located to the Gaming Project); and
- (iii) any demonstrated positive effects of the Gaming Project with respect to the applicable environmental effect on the County.

(e) Provision Issues. An objective of the Gaming Project Intergovernmental Agreement is to avoid any provision which:

- (i) amounts to "double counting" in the sense that it requires the Tribe to provide contributions or implement County Mitigation Measures which are already specifically intended to be covered by contributions or County Mitigation Measures which the Tribe has agreed to make or implement in other provisions of the Intergovernmental Agreement or in agreements with other parties;
- (ii) is inconsistent with principles of mitigation that would be applied to a non-Indian developer developing a project within an unincorporated area of the County while recognizing that the Gaming Project would not be permitted by the County on the currently identified property;
- (iii) effectively constitutes selection or implementation of the "no action" alternative set forth in the EIS or otherwise does not permit the Tribe to achieve its objectives of establishing an economically profitable gaming operation;
- (iv) is inconsistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (see Nollan v. California Coastal Commission (1987) 483 U.S. 825; Dolan v City of Tigard, (1994) 512 U.S. 374; and Ehrlich v. City of Culver City, (1996) 12 Cal. 4th 854, which cases are cited in CEQA Guidelines § 15041); and
- (v) is infeasible;

(f) Compact Provisions. An objective of this MOU is to satisfy any requirement of a Compact for an intergovernmental agreement between the Tribe and the County relating to the environmental impact of the Gaming Project on the County. The Parties recognize, however, that a future Compact may impose additional rights and responsibilities on the Parties and that any changes in the scope of the Gaming Project or identification of impacts not revealed in the final EIS may require resolution through applicable Compact provisions.

4.0. Dispute Resolution

4.1. Arbitration

(a) Arbitration Process. In order to foster good government-to-government relationships and insure timely and binding resolution of any disputes regarding appropriate mitigation, the Parties agree to the arbitration process set forth in this Section 4.1.

(b) Submission of Comprehensive Intergovernmental Agreements. If the Parties have not approved, executed and delivered a Comprehensive Intergovernmental Agreement consistent with Section 3.0 within thirty (30) days after the date of the publication of the Final EIS, or such later date as the Parties may mutually agree in writing, each Party shall submit to the other Party, not later than forty-five (45) days after the date of the publication of the Final EIS, a draft Comprehensive Intergovernmental Agreement which represents each Party's complete, last and best offer of a Comprehensive Intergovernmental Agreement. These timelines and those in paragraph 4.1 (c), however, are tolled if the Tribe has not stated in writing the designated project alternative in the EIS it intends to build at least 90 days prior to the publication of the Final EIS. In such event, these timelines will be extended by the number of days that elapse from the 90 day period to the date the Tribe designates in writing its selected project alternative.

(c) Arbitration Demand. If the Parties have not approved, executed and delivered a Comprehensive Intergovernmental Agreement consistent with Section 3.0 within fifty-five (55) days after the date of the publication of the Final EIS, or such later date as the Parties may mutually agree in writing, either Party may thereafter, during the period from fifty-five (55) days until seventy-five (75) days after the date of the publication of the Final EIS, demand binding arbitration, as set forth in this Section 4.1, by submitting a written notice of its intent to arbitrate to the other Party and the American Arbitration Association. If neither Party demands arbitration during such period, and an extension has not been agreed upon in writing, the Parties' respective rights to demand arbitration pursuant to this Section 4.1 shall expire. If either Party demands arbitration during such period, such arbitration shall thereafter be the sole and exclusive remedy and forum for resolution of disputes between the Parties concerning the proposed provisions of a Comprehensive Intergovernmental Agreement.

(d) Arbitration Procedures. The arbitration shall be conducted in an expedited manner before a single arbitrator in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), or JAMS Streamlined Arbitration Rules, depending upon the forum utilized, and as modified by the provisions of this Section 4.1. The single arbitrator shall be a person mutually agreed upon and appointed by the Parties from the approved arbitrator list and selection process attached at Exhibit C, or if such a person is unavailable, the Parties shall expeditiously mutually agree upon an alternate person. If these selection processes are unsuccessful, as a final resort, the Parties shall submit the dispute to the AAA for selection of the arbitrator and to conduct the proceedings. The list of potential arbitrators provided by AAA shall consist of persons experienced in the subject matter of this MOU, including but not limited to having expertise in CEQA, NEPA and large commercial developments. The arbitration shall be held in San Francisco, California, or such other location as shall be mutually agreed upon by the Parties. Each Party shall bear one-half of the costs and expenses of the arbitration as well as their own attorney fees and costs.

(e) Submissions. Within ten (10) days of the date the arbitrator is selected, each Party shall submit to the arbitrator and the other Party the draft Comprehensive Intergovernmental Agreement which represents its complete, last and best offer of a Comprehensive Intergovernmental Agreement and such other written materials as such Party intends for the arbitrator to consider. The draft Comprehensive Intergovernmental Agreement

may incorporate provisions of previously executed Intergovernmental Agreements and shall identify for the arbitrator's easy review the areas of disagreement between the Parties. Within thirty (30) days from selection of the arbitrator, the arbitrator shall conduct a hearing. Unless otherwise agreed by the Parties, the arbitrator shall not receive written submissions from, or communicate with, any third party. The Parties understand that essential documents which the arbitrator will consider in making an award or order shall include the Final EIS, any Intergovernmental Agreements previously executed by the Parties and the draft Comprehensive Intergovernmental Agreements submitted by each of the Parties.

(f) Selection. Within ten (10) days following the hearing, the arbitrator shall select and award the draft Comprehensive Intergovernmental Agreement submitted by one of the Parties without modification. The arbitrator shall not have authority to issue any award or order other than (i) an order to submit a draft Comprehensive Intergovernmental Agreement in accordance with Subsection 4.1(g), (ii) the selection and award of the draft Comprehensive Intergovernmental Agreement submitted by one of the Parties without modification, and (iii) specific performance of the terms of the draft Comprehensive Intergovernmental Agreement selected and awarded by the arbitrator.

(g) Award Without Review of the Merits. If the arbitrator determines that neither Party has submitted a draft Comprehensive Intergovernmental Agreement which is consistent with Section 3.0 on a timely basis, the arbitrator shall order both of the Parties to immediately submit a draft Comprehensive Intergovernmental Agreement which is consistent with Section 3.0. If the arbitrator determines that one Party has submitted a draft Comprehensive Intergovernmental Agreement that is consistent with Section 3.0 on a timely basis and the other Party (i) has not submitted a draft Intergovernmental Agreement on a timely basis or (ii) has otherwise not participated in the arbitration, the arbitrator shall select and award the draft Comprehensive Intergovernmental Agreement submitted by the Party which has made a timely submission and participated in the arbitration. If the arbitrator determines that the draft Comprehensive Intergovernmental Agreement submitted by one of the Parties is consistent with Section 3.0 and the draft Comprehensive Intergovernmental Agreement submitted by the other Party is inconsistent with Section 3.0, the arbitrator shall select and award the draft Comprehensive Intergovernmental Agreement which the arbitrator determines is consistent with Section 3.0.

(h) Award on the Merits. If the arbitrator determines that (i) both Parties have submitted a draft Comprehensive Intergovernmental Agreement on a timely basis, (ii) both draft Comprehensive Intergovernmental Agreements are consistent with Section 3.0, and (iii) both Parties have participated in the arbitration process, the arbitrator shall select and award the draft Comprehensive Intergovernmental Agreement which most fully achieves the overall objectives set forth in section 3.0.

(i) Mitigation Measure Issues. The Parties understand that the mitigation measures contained in a Comprehensive Intergovernmental Agreement may not mitigate every environmental effect of the Gaming Project to a level of insignificance, and that the arbitrator shall have authority to select and award a draft Comprehensive Intergovernmental Agreement which does not mitigate every environmental effect of the Gaming Project to a level where the

environmental effect is no longer "significant" (within the meaning of NEPA, including 40 C.F.R. 1508.13).

(j) Final and Binding. The award and order of the arbitrator shall be final and binding on the Parties. Each of the Parties waives any rights it may have to review of the arbitrator's award. Judgment on the arbitrator's award or order may be entered in the federal District Court for the Northern District of California or, if such Court declines jurisdiction, the State of California Superior Court for Sonoma County.

(k) Comprehensive Intergovernmental Agreement. The Parties hereby agree that the selection and award by the arbitrator of a draft Comprehensive Intergovernmental Agreement shall be deemed to constitute a binding and enforceable agreement between the Parties which has been approved, ratified, executed and delivered by the Parties. The Parties further agree that the arbitrator or a court enforcing the arbitrator's award or order may order specific performance with respect to such agreement. Without limiting the effect of the foregoing, each Party agrees to take such further actions as the other Party may request to approve, ratify, execute and deliver a Comprehensive Intergovernmental Agreement which contains the same provisions as set forth in the Comprehensive Intergovernmental Agreement which has been selected and awarded by the arbitrator and to otherwise consummate the transactions contemplated by the arbitrator's selection, award and orders.

(l) Sovereign Immunity. In order to effectuate the provisions of this MOU and Section 4.1, and in the exercise of their respective rights to sovereignty, each of the Parties agrees to waive its right to assert sovereign immunity in connection with the arbitrator's jurisdiction or in any action to (i) enforce the other Party's obligation to arbitrate, (ii) enforce or confirm any arbitral award or order rendered in the arbitration, or (iii) enforce or execute any judgment based upon an award or order.

4.2. Limited Waiver of Sovereign Immunity

(a) Waiver. Subject to the provisions of this Subsection 4.2, the Tribe expressly and irrevocably waives sovereign immunity (and any defenses based thereon) in favor of the County, but not as to any other person or entity, as to any dispute which specifically arises under this MOU and not as to any other action, matters or disputes. The waiver shall include a resolution of the General Council in substantially the form attached as Exhibit B.

(b) Limitations on Tribe's Waiver. The Tribe's waiver of sovereign immunity is specifically limited to permitting, and does permit, the awards and orders by the arbitrator as contemplated in Subsection 4.1. The Tribe does not waive its sovereign immunity with respect to (i) actions by third parties, (ii) disputes between the Tribe and the County which do not specifically arise under this MOU, or (iii) any other award by the arbitrator which is inconsistent with Section 4.1.

4.3. Confidentiality

The Parties agree that any negotiations regarding an Intergovernmental Agreement and any dispute resolution meetings or communications, arbitration proceedings, or agreements between the Parties settling or otherwise relating to any claims of breach of this MOU, or the Intergovernmental Agreements contemplated by this MOU, or otherwise, shall be and remain confidential to the extent not prohibited by applicable law.

5.0. Termination

5.1. Termination Events. Unless otherwise agreed by the Parties, this MOU shall automatically terminate, on the earlier of the following dates:

(a) the date the Tribe submits a written notice to the County to the effect that the Tribe has permanently decided to withdraw, or not submit, any application requesting that the Secretary accept trust title to the Property for the benefit of the Tribe or to otherwise cease the development or operation of the Gaming Project on the Property; or

(b) the date the Parties' respective rights to demand arbitration pursuant to Section 4.1 expires; or

(c) if either Party initiates arbitration pursuant to Section 4.1, upon the execution and delivery of a Comprehensive Intergovernmental Agreement consistent with the arbitrator's selection and award.

5.2. Effect of Termination. Upon termination of this MOU, none of the provisions of this MOU shall be deemed to survive such termination and neither Party shall have any liability to the other Party with respect to matters arising under, or related to, this MOU.

6.0. Representations and Warranties

Each Party hereby represents, warrants and covenants to the other Party as follows:

6.1. Authority. Such Party has the legal power and authority to execute and deliver this MOU and Intergovernmental Agreements and to perform its obligations under this MOU.

6.2. Due Authorization. The approval, execution, and delivery of this MOU and Intergovernmental Agreements and the performance by such Party of its obligations under this MOU have been authorized by all requisite actions of such Party.

6.3. Due Execution and Delivery. The persons executing this MOU and any Intergovernmental Agreement on behalf of such Party are and shall be duly authorized to execute and deliver this MOU and any such Intergovernmental Agreements.

6.4. Enforceability. This MOU and any Intergovernmental Agreements constitute legal, valid and binding obligations of such Party, enforceable against such Party in accordance with its terms, and, once executed, cannot be invalidated pursuant to an action of the Board of Supervisors of the County or the Tribal Council or the members of the Tribe, as may be applicable.

7.0. Scope of MOU

7.1. Property. This MOU is intended to apply, and shall be construed to apply, solely to the Property and shall not be construed to apply to any other property.

7.2. Submission to Jurisdiction. The Parties acknowledge and agree that neither this MOU nor the Intergovernmental Agreements contemplated hereby are intended to constitute, or shall be construed as constituting, a submission by the Tribe to the jurisdiction of (i) the County or any or any of its subdivisions or departments, (ii) any of its or their respective officials, employees, inspectors or contractors, or (iii) any of its or their respective laws, rules, regulations, ordinances, general plans or specific plans.

7.3. Third Party Matters. This MOU is not intended to, and shall not be construed to, create any right on the part of any third party to bring any action or otherwise enforce any of its terms.

8.0. Notice

All notices required by this MOU shall be deemed to have been given when made in writing and delivered or mailed to the respective Parties and their representatives at their respective addresses as set forth below or such other addresses as they may provide to the other Party from time to time:

For the County:

County Counsel
Office of the Sonoma County Counsel
575 Administration Drive
Santa Rosa, CA 95403
ATTN: County Counsel
Telephone: (707) 565-2421
Fax: (707) 565-2624

With copies to:

County Administrator
575 Administration Drive
Santa Rosa, CA 95403
ATTN: County Administrator
Telephone: (707) 565-2431
Fax: (707) 565-3778

For the Tribe:

Federated Indians of Graton Rancheria
P.O. Box 14428
Santa Rosa, CA 95402
Telephone: (707) 566-2288
Fax: (707) 566-2291

With copies to:

California Indian Legal Services
510 - 16th Street, Fourth Floor
Oakland, CA 94612
ATTN: John Maier, Esq.
Telephone: (510) 835-0284
Fax: (510) 835-8045

9.0. Governing Law

This MOU shall be governed by, and construed in accordance with, the laws of the State of California.

10.0. Construction of Agreement

This MOU, together with all Exhibits hereto, constitutes the entire agreement between the Parties relating to this subject matter and supersedes all prior negotiations, representations, drafts or other agreements, whether written or oral, relating to this subject matter. In the event of a dispute between the Parties as to the language of this MOU or the construction or meaning of any term contained in this MOU, this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against, or in favor of, either Party based on the preparation or negotiation of this MOU. The headings contained in this MOU are for convenience of reference only and shall not effect this MOU's construction or interpretation.

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IN WITNESS WHEREOF, the Parties have executed this MOU as of the effective date set forth above.

SONOMA COUNTY, CALIFORNIA

Date: October 29, 2004

By: Mike Reilly
Mike Reilly, Chairman
Sonoma County Board of Supervisors

Attest:

Eeve T. Lewis by V. Borelli
EEVE T. LEWIS, County Clerk
And ex-officio Clerk of the Board of Supervisors

APPROVED AS TO FORM BY COUNTY COUNSEL:

Date: 10/29, 2004

By: St Woodside
Steven Woodside, Esq.
County Counsel

THE FEDERATED INDIANS OF THE GRATON RANCHERIA:

Date: 12/3/04, 2004

By: Greg Sarris
Greg Sarris
Chairperson

APPROVED AS TO FORM BY LEGAL COUNSEL FOR THE TRIBE:

Date: 10/29, 2004

By: John A. Maier
John Maier, Esq.
California Indian Legal Services

EXHIBIT A

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that certain real property situated in the Unincorporated Area, County of Sonoma, State of California, described as follows:

PARCEL ONE:

Farm No. 74, and Farm No. 75, as shown upon the Plan of Subdivision of Santa Rosa Farms No. 2, Sonoma County, California, filed in the Office of the County Recorder of Sonoma County, California, on March 7, 1910 in Book 21 of Maps, Page 14, Sonoma County Records.

APN: 045-072-006
ARB: None Shown

PARCEL TWO:

Farms 1, 2 and "A", 21, 22, 23, 24, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 69, 70, 71, 72, 73, 76, 99, 100 and 101, so numbered and designated upon that certain Map entitled "Subdivision of Santa Rosa Farms No. 2, Sonoma County, California", filed March 7, 1910 in Book 21 of Maps, Page 14, Sonoma County Records.

EXCEPTING THEREFROM those portions of Farms 22, 42, 43, 44, 45, 46, 47 and 52 granted to The Sonoma County Flood Control and Water Conservation District in Deed dated July 11, 1963 and recorded November 8, 1963 in Book 2001 of Official Records, Page 191, under Recorder's Serial No. H-63821, Sonoma County Records.

ALSO EXCEPTING THEREFROM all that portion as contained in the Deed to The County of Sonoma recorded September 14, 1994, as Document No. 1994 0106342, Sonoma County Records.

ALSO EXCEPTING THEREFROM all that portion conveyed to The County of Sonoma by Deed recorded November 17, 1994 under Document No. 1994 0128597, Sonoma County Records.

APN: 045-071-002, 003, 004, 005, 006, 045-072-012, 013, 014, 046-021-024, 025, 026, 027, 028, 029, 030, 031, 032, 033, 034, 035, 036, 037, 038, 134-261-003, 034-264-003, 005, 006, 007.008, 134-267-001 & 005 ARB: None Shown

PARCEL THREE:

A Tract of land, being a portion of the Rancho Llano de Santa Rosa, and commencing on the boundary line of said Rancho on the line between Section 21 and 22, in Township 6 North, Range 8 West, Mount Diablo Base & Meridian, at a point in the center of the County Road

known as the Santa Rosa and Stony Point Road, from which point the post for the railing of the bridge, across the Laguna and standing on the Southeast corner of the same, is North 31 ° West, 13 links distant; thence from said point of beginning, North 89° 30' East, 11.92 chains, South 39° 05' East, 2.61 chains, South 53° East, 1.36 chains, South 64° East, 1.23 chains, South 77° 15' East, 2.62 chains, South 88° 05' East, 3.94 chains, North 4° 15' East, 1.43 chains, South 88° East, 2.03 chains, South 56° East, 2.44 chains, North 87° ,15' East, 22.62 chains to the Northwest boundary line of the Cotati Rancho; thence along said line, North 29° 15' East, 39.44 chains; thence leaving said line, West 67.92 chains to the center of the aforesaid Road and Section line; thence South, 32.18 chains to the point of beginning. Magnetic Variation 17° East.

EXCEPTING THEREFROM those portions of land described in the Deeds from Manuel T. Pimentel, et al, to the Sonoma County Flood Control and Water Conservation District, recorded August 16, 1961 in Book 1840 of Official Records, Page 280, Serial No. G-60050, Sonoma County Records, and recorded September 24, 1963 in Book 1989 of Official Records, Page 575, Serial No. H-56600, Sonoma County Records.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed from Mary C. Pimentel, et al, to the Sonoma County Flood Control and Water Conservation District, recorded February 11, 1966 in Book 2187 of Official Records, Page 957, Serial No. J-83549, Sonoma County Records.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed to the City of Rohnert Park, recorded January 11, 1989 as Document No. 89002750 of Official Records of Sonoma County.

ALSO EXCEPTING THEREFROM that portion of land described in the Deed to the County of Sonoma, recorded May 17, 1996 as Document No. 1996 0044116 of Official Records of Sonoma County.

PARCEL FOUR:

An easement for cattle and agricultural equipment crossing, as described in the Deed from the Sonoma County Flood Control and Water Conservation District to Manuel L. Pimentel and Mary C. Pimentel, recorded August 15, 1961 in Book 1840 of Official Records, Page 284, Serial No. G-60051, Sonoma County Records.

PARCEL FIVE:

An easement for cattle and agricultural equipment crossing, as described in the Deed from the Sonoma County Flood Control and Water Conservation District to Manuel L. Pimentel and Mary C. Pimentel, recorded August 15, 1961 in Book 1840 of Official Records, Page 288, Serial No. Serial No. G-60052, Sonoma County Records.

APN: AP46021-20 & 21 & 39 & 40

ARB: None Shown

EXHIBIT B

EXHIBIT B

FEDERATED INDIANS OF GRATON RANCHERIA

RESOLUTION AUTHORIZING A LIMITED WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY WITH RESPECT TO A MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF SONOMA WHICH PROVIDES A FRAMEWORK FOR NEGOTIATION OF AN INTERGOVERNMENTAL AGREEMENT TO MITIGATE THE OFF-RESERVATION IMPACTS OF THE TRIBE'S PROPOSED GAMING PROJECT ON THE COUNTY.

GENERAL COUNCIL RESOLUTION NO.: **GC-04-25**

DATE APPROVED: November 6, 2004

WHEREAS, the Federated Indians of Graton Rancheria (the "Tribe") is a federally recognized Indian tribe organized pursuant to the Constitution of the Federated Indians of Graton Rancheria, approved by the Secretary of the Interior on December 23, 2002, (the "Constitution"); and

WHEREAS, in 2000, Congress restored the federal government's government-to-government relationship with the Tribe pursuant to the Graton Rancheria Restoration Act (Pub. L. 106-568, 25 U.S.C. § 1300n et. seq.); and

WHEREAS, the Tribe's Restoration Act provides that the Secretary of the Interior shall accept into trust for the benefit of the Tribe land located in Marin or Sonoma County and that such land, once taken into trust for the benefit of the Tribe, shall be the Tribe's reservation; and

WHEREAS, the Tribe has currently identified property, which is located approximately 11 miles from the Tribe's former Graton Rancheria in an unincorporated area of Sonoma County adjacent to the western boundary of the City of Rohnert Park Urban Growth Boundary; and

WHEREAS, the Tribe intends to submit an application to the Secretary requesting that the United States take title to the identified property in trust for the benefit of the Tribe as part of the Tribe's new reservation, and further request that the Secretary or the National Indian Gaming Commission ("NIGC") determine that its Reservation is eligible for gaming under the Indian Gaming Regulatory Act; and

WHEREAS, the Tribe intends to build a casino and hotel resort on a portion of its Reservation; and

WHEREAS, prior to constructing the gaming facility, the Indian Gaming Regulatory Act provides that the Tribe must first obtain (i) approval of its management contract from the NIGC and (ii) a Tribal-State Gaming Compact from the State of California; and

WHEREAS, the NIGC must comply with the National Environmental Policy Act in connection with its approval of the Tribe's management contract; and

WHEREAS, the Tribe has requested the NIGC to prepare an Environmental Impact Statement ("EIS") (as distinguished from a less detailed Environmental Assessment) reviewing the Gaming Project and, in accordance with the Tribe's request, the NIGC, acting as lead agency, is currently preparing an Environmental Impact Statement; and

WHEREAS, after conducting public hearings, the NIGC issued the final Scoping Report for the EIS in August 2004 based on comments received from the public and local jurisdictions, and the NIGC expects to issue a draft EIS in early 2005; and

WHEREAS, each of the new and amended compacts negotiated by the Governor in 2004 includes environmental provisions which provide that, prior to the commencement of certain activities on its reservation, including the construction of new casino facilities, the tribe shall (i) prepare a tribal environmental impact report and (ii) negotiate an intergovernmental agreement between the applicable tribe and the applicable county or city to mitigate certain off-reservation impacts identified in the environmental analysis contained in the tribal environmental impact report; and

WHEREAS, the 2004 Compacts require the applicable tribe and the applicable county or city to enter into an arbitration process to resolve any disagreement regarding the provisions which should be included in the intergovernmental agreement; and

WHEREAS, the Tribe expects that any Compact which may be negotiated between the Tribe and the State will likely include environmental provisions similar to those which are included in the 2004 Compacts; and

WHEREAS, the County and Tribe have prepared a Memorandum of Understanding (the "MOU") which establishes a bilateral framework for negotiating the intergovernmental agreement required under the 2004 Compacts; and

WHEREAS, under the MOU, the Tribe and the County have agreed to address significant off-reservation environmental impacts on the County by commencing negotiations, upon publication of the draft EIS, of one or more intergovernmental agreements specifying appropriate, fair share mitigation measures by the Tribe; and

WHEREAS, the MOU provides for a limited waiver of the Tribe's sovereign immunity in favor of the County (but not as to any other person or entity) to ensure that the MOU is legally binding on both parties; and

WHEREAS, Article VI, Section 2 of the Constitution reserves to the General Council the power to waive the Tribe's sovereign immunity to unconsented suit; and

WHEREAS, on October 26, 2004, the County Board of Supervisors authorized County Counsel, in consultation with the Board Chairman, to finalize the MOU; and

WHEREAS, on October 29, 2004, the Tribal Council, having reviewed and approved the terms and conditions of the MOU, authorized the Chairman to execute the MOU, but only after notifying the County that the MOU would be unenforceable until such time as the General Counsel consented to the limited waiver of the Tribe's sovereign immunity with respect to the MOU; and

WHEREAS, on October 29, 2004, the County and Tribe executed the MOU with an effective date of November 1, 2004; and

WHEREAS, the Tribal Council requests that the General Council approve the limited waiver as set forth below; and

WHEREAS, this resolution, if enacted, would supercede and extinguish any prior consent by the General Counsel to waive the Tribe's sovereign immunity in favor of the County (but would not affect the prior consent in favor of the City of Rohnert Park) pursuant to General Council Resolution GC-03-22, enacted on September 22, 2003, as the agreement with the County which was contemplated under said resolution was never executed.

NOW, THEREFORE, BE IT RESOLVED THAT the General Council agrees to waive the Tribe's right to assert sovereign immunity in favor of the County, but not as to any other person or entity, as to any dispute which specifically arises under the MOU, but not as to any other action or matters; provided, however, that the Tribe's waiver of sovereign immunity is specifically limited to permitting, and does permit, arbitration pursuant to Section 4.1 of the MOU and any court action by the County to (i) enforce the Tribe's obligation to arbitrate, (ii) enforce or confirm any arbitral award or order rendered in the arbitration, or (iii) enforce or execute any judgment based upon an award or order; and further provided that the Tribe does not waive its sovereign immunity with respect to (i) actions by third parties, (ii) disputes between the Tribe and the County which do not specifically arise under the MOU, or (iii) any other award by the arbitrator which is inconsistent with Section 4.1 of the MOU.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT this resolution supercedes and extinguishes any prior consent by the General Counsel to waive the Tribe's sovereign immunity in favor of the County (but would not affect the prior consent in favor of the City of Rohnert Park) pursuant to General Council Resolution GC-03-22, enacted on September 22, 2003.

CERTIFICATION

We the undersigned to hereby certify that the foregoing resolution was duly adopted by the General Membership on the 6th day of November, 2004, at a General Council meeting at which a quorum of the registered voters was present, by a vote of 221 for 0 opposed, and 0 abstaining, and that said Resolution has not been rescinded or amended in any way.

Ray Sceris
Chairman

ATTEST:

Jeannette Anglin
Secretary

EXHIBIT C

EXHIBIT C
AGREED UPON LIST OF ARBITRATORS

1. Hon. Edward Panelli
JAMS
160 W. Santa Clara St., Suite 1150
San Jose, CA 95113
Telephone: (408) 288-2240
Fax: (408) 288-2240
E-mail: Not Available
2. Hon. Cruz Reynoso
UCD/School of Law
400 Mark Hall
David, CA 95616
Telephone: (530) 752-2897
Fax: (530) 752-4704
E-mail: Not Available
3. Frederick S. Wyle
3 Embarcadero Center, 7th Fl.
San Francisco, CA 94111
Telephone: (415) 788-0781
Fax: (415) 788-3410
E-mail: Not Available
4. Tina A. Thomas
Remy, Thomas, Moose & Manley
455 Capital Mall, Suite 210
Sacramento, CA 95814
Telephone: (916) 443-2745
Fax: (916) 443-9017
E-mail: tthomas@rtandm.com
5. Palmer B. Madden
ADR Services
3000 Danville Blvd., Suite 543
Alamo, CA 94507
Telephone: (925) 838-8593
Fax: (925) 831-209
E-mail : pbm@netvista.net
6. E. Clement Shute, Jr.
Shute, Mihaley & Weinberger LLP
396 Hayes St., Ste. 1
San Francisco, CA 94102
Telephone: (415) 552-7272
Fax: (415) 552-2816
E-mail: shute@smwlaw.com
7. Richard H. Chernick
350 S. Figueroa St., Suite 990
Los Angeles, CA 90071
Telephone: (213) 253-9790
Fax: (213) 620-0100
E-mail: rchernick@msn.com

The above list may be modified or supplemented by mutual written agreement of the Parties. The Parties shall contact the arbitrators to determine their availability to conduct an arbitration consistent with the timelines set forth in section 4.1. The person highest on the above list shall be chosen unless the Parties mutually agree to an alternate selection.

Tribal Resolution

**RESOLUTION OF THE
FEDERATED INDIANS OF GRATON RANCHERIA**

TRIBAL COUNCIL RESOLUTION REAFFIRMING THE TRIBE'S COMMITMENT TO MITIGATE ANY SIGNIFICANT, OFF-RESERVATION IMPACTS OF ITS PROJECT ON THE CITY OF ROHNERT PARK BY ABIDING BY THE TERMS AND CONDITIONS (INCLUDING RECURRING CONTRIBUTIONS) OF THE TRIBE'S MOU WITH THE CITY AS APPLICABLE TO THE NEW PROPERTY.

RESOLUTION NO.: 05-14

DATE APPROVED: August 10, 2005

WHEREAS: The Federated Indians of Graton Rancheria (the "Tribe") is a federally recognized Indian tribe organized pursuant to the Constitution of the Federated Indians of Graton Rancheria, approved by the Secretary of the Interior on December 23, 2002, (the "Constitution"); and

WHEREAS: The Tribe entered into a Memorandum of Understanding with the City of Rohnert Park (the "City") on October 14, 2003 (the "MOU"); and

WHEREAS: The Tribe agreed in the MOU to provide the City substantial recurring and non-recurring contributions to mitigate any significant, off-reservation impacts of the Tribe's proposed resort casino and hotel (the "Project") on the City; and

WHEREAS: The MOU contemplates the Project being built on a 360-acre parcel located in an unincorporated area of Sonoma County adjacent to and west of the urban growth boundary of the City; and

WHEREAS: Following the execution and consistent with the terms of the MOU, the National Indian Gaming Commission has been studying the impacts of the Project on the 360-acre parcel and surrounding environment in connection with the preparation of an environmental impact statement pursuant to the National Environmental Policy Act; and

WHEREAS: The Tribe and its developer have since identified an environmentally more suitable site, and at significant cost, have agreed to purchase a new 90-acre parcel (the "New Property") located adjacent to the eastern boundary of the 360-acre parcel, in addition to agreeing to purchase approximately 180 acres of the 360-acre parcel for mitigation purposes; and

WHEREAS: A portion of the New Property will be taken into trust for the Tribe's reservation and for the development of the Project; and

WHEREAS: Preliminary analysis indicates that building the Project on a portion of the New Property will have fewer and less severe environmental impacts than if the Project were built on the 360-acre parcel; and

WHEREAS: The New Property is consistent with Sonoma County's land use plans in that it is outside community separator, it is not designated as open space and it is within the City's urban growth boundary in an area identified for commercial, industrial and residential development; and

WHEREAS: The Tribal Council wishes to confirm its commitment to minimize any significant, off-reservation impacts of the Project on the City and maintain the Tribe's cooperative relationship with the City.

NOW, THEREFORE, BE IT RESOLVED THAT the Tribal Council hereby reaffirms the Tribe's commitment to mitigate any significant, off-reservation impacts of its Project on the City by abiding by the principle terms and conditions of the MOU (including recurring contributions) as applicable to the New Property.

CERTIFICATION

This is to certify that the foregoing Resolution was duly approved by the Tribal Council of the Federated Indians of Graton Rancheria at a duly noticed Tribal Council Meeting held on August 10, 2005, by a vote of 7 For, ~~0~~ Opposed and ~~0~~ Abstaining, with a quorum present, and that this Resolution has not been changed, rescinded, or amended in any way.

Jeannette Anglin
Tribal Secretary

August 11, 2005
Date

J. Sarris
Tribal Chairperson

August 11, 2005
Date

Tribal Labor Agreements

MAIER PFEFFER & KIM, LLP

510 16th Street, Suite 302
Oakland, CA 94612

Tel 510 835-3020 x 304 | Fax 510 835-3040 | jmaier@jmandmplaw.com

received
August 22, 2007

August 21, 2007

Sent via Federal Express Overnight Delivery #7996 9799 9346

Chad Broussard
Analytical Environmental Services
1801 7th Street, Suite 100
Sacramento, CA 95814

Re: Federated Indians of Graton Rancheria
H.E.R.E. and Project Labor Agreements

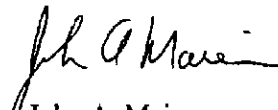
Dear Mr. Broussard:

Enclosed please find the following:

- 1) A copy of the agreement between H.E.R.E. and the Federated Indians of Graton Rancheria, executed on August 6, 2003; and
- 2) An unsigned copy of the Project Labor Agreement between the Federated Indians of Graton Rancheria and the Sonoma, Lake, Mendocino County Building & construction Trades Council.

If you have any questions, please feel free to contact me.

Sincerely,


John A. Maier

Enclosures

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into and operative on this 6th day of August 2003 by and between the Federated Indians of Graton Rancheria (the "Tribe") a federally recognized Indian tribe, on behalf of itself and its affiliates, and the Hotel Employees & Restaurant Employees International Union, AFL-CIO (the "Union") on behalf of itself and its affiliates, and pertains to the tribal gaming facility and other related facilities providing hospitality or recreational services to the casino guests, the only significant purpose of which is to facilitate patronage of the class III gaming operations (the "Casino") operated or to be operated by the Tribe or any legal entity substantially under the control of the Tribe in Sonoma or Marin Counties, California. The Tribe and the Union are collectively the "Parties."

RECITALS

- A. The Tribe is a federally recognized Indian tribe that will be the beneficial owner of certain Indian lands located in Sonoma or Marin Counties, California.
- B. The Tribe desires to engage in tribal gaming pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, and has requested a tribal-state compact with the State of California authorizing said gaming activities.
- C. The Tribe faces political opposition from competitors and certain federal, state, and local politicians.
- D. The Union organizes employees for the purposes of bettering workers' wages, hours and other conditions of employment.
- E. The Union represents an effective ally and beneficial partner in the Tribe's efforts to engage in economic development.

NOW, THEREFORE, THE PARTIES HAVE REACHED THE FOLLOWING UNDERSTANDINGS:

1. Purpose

The purpose of the Agreement is to ensure an orderly environment for the exercise by Eligible Employees of their rights under the Tribal Labor Relations Ordinance, which shall be adopted by the Tribe and shall be materially the same as the Tribal Labor Relations Ordinance attached to the Compacts executed between the State of California and certain tribes in California and ratified by the California State Legislature in 1999 and attached hereto, unless otherwise required by the Compact to be executed between the Tribe and the State of California, and to avoid strikes, picketing and/or other economic action directed at the Tribe in the event the Union decides to conduct an organizing campaign among Eligible Employees. Accordingly, the Tribe agrees to a Card Check Recognition Process pursuant to the terms of this Agreement.

2. Definitions

- a. "**Casino**" means the commercial gaming business of the Tribe operated on its Indian lands in Sonoma or Marin Counties, California and related facilities providing hospitality or recreational services to the casino guests, as defined in the TLRO, the only significant purpose of which is to facilitate patronage to the class III gaming operations, authorized by the Indian Gaming Regulatory Act (IGRA) and the Compact and operated and managed by Manager, together with any other lawful commercial activity related to gaming allowed in the facility including, but not limited to, the sale of food, beverages, tobacco, gifts, and souvenirs.
- b. "**Commencement Date**" means the date that the Casino is substantially complete, open to the public and that gaming is conducted in the facility.
- c. "**Compact**" means the Tribal-State Compact that has been requested between the Tribe and the State of California.
- d. "**Manager**" means any entity other than the Tribe which is retained to operate the casino or any related facility (as defined herein).
- e. "**TLP**" means Tribal Labor Panel constituted by the State of California under the Department of Personnel Administration pursuant to the TLRO.
- f. "**TLRO**" means the Tribal Labor Relations Ordinance to be adopted by the Tribe pursuant to this Agreement which will be attached hereto as Attachment 1, and made part of this Agreement.
- g. "**Tribe**" means the means the Federated Indians of Graton Rancheria, a federally recognized Indian tribe, and does not include joint ventures, tribal businesses or other enterprises other than the Casino as defined above.
- h. "**Union**" means the Hotel Employees and Restaurant Employees International Union, AFL-CIO, and its affiliates.

3. Term; Access

- a. This Agreement is for a term beginning upon execution and ending on the date five years from the Commencement Date or sooner upon the execution of a Collective Bargaining Agreement or issuance of an arbitration award, which concludes the Collective Bargaining Agreement negotiations, either of which explicitly supercedes this Agreement.
- b. During the term of this Agreement, as described in paragraph 3(a) hereof, if the Union provides written notice to the Tribe of its intent to organize Eligible Employees covered by this Agreement, the Tribe shall provide access to its Casino premises and to such Eligible Employees by the Union in accordance with the TLRO, which will be attached hereto as Attachment 1, and made part of this Agreement.

4. Applicability

All card check procedures and any recognition of the Union provided for by this Agreement shall be in accordance with and applicable only to "Eligible Employees" of the Casino as defined in the TLRO, which will be attached hereto as Attachment I, and made part of this Agreement.

5. Card Check Recognition Procedure

- a. This Agreement shall cover all employees defined as "Eligible Employees" in the TLRO or in classifications designated by different names when performing similar duties at the Tribe's Casino and other related facilities providing hospitality or recreational services to the casino guests, as defined in the TLRO.
- b. Within ten (10) days following receipt of written notice of intent to organize Eligible Employees, which shall not be submitted by Union prior to Commencement Date, the Tribe shall provide, upon written request, to the Union the names, addresses, telephone numbers and work classifications or titles of all Eligible Employees after said request, and every thirty (30) days thereafter upon additional written requests from the Union, the Tribe will send an updated list of Eligible Employees to the Union with the names, addresses, telephone numbers and work classifications or titles of all Eligible Employees.
- c. Definition of Bargaining Unit
 - (1) The Union and the Tribe shall meet within a reasonable period, but not to exceed sixty (60) days from the Commencement Date for the purpose of defining an appropriate bargaining unit consistent with the definition of Eligible Employees as defined in the TLRO.
 - (2) In the event that the Parties are unable to agree after negotiating in good faith for a reasonable time not to exceed forty five (45) days from the date of the first meeting, upon the definition of an appropriate unit, the issue of the description of such unit shall be submitted to dispute resolution arbitration as provided in Paragraph 10 of this Agreement. The arbitrator shall rely on the definition of Eligible Employees as defined in the TLRO in his/her deliberations over an appropriate unit.
 - (3) The National Labor Relations Act may be used for guidance in determining the composition of the bargaining unit, but shall in no way be deemed applicable to the Tribe by this Agreement.
- d. The Tribe agrees that the Union shall be recognized as the exclusive bargaining agent for any agreed-upon or otherwise determined bargaining unit under this Agreement not later than ten (10) days after receipt by the Tribe of written notice from the TLP that the Union has presented and the TLP has independently verified valid authorization cards signed by a majority (50%+1)

of Eligible Employee authorizations as provided for in this Agreement.

- e. For the purposes of determining the number of employees that constitute a majority of the bargaining unit, the Eligible Employee population will be composed of only those Eligible Employees employed in the bargaining unit on the date thirty (30) days prior to the date that the Union requests in writing to the TLP for a determination that valid authorization cards have been signed by a majority (50%+1) of Eligible Employees. The Tribe shall provide the TLP the names and job titles of all Eligible Employees and other information required for the TLP to verify the existence of a majority (50%+1) of Eligible Employee authorizations as provided for in this Agreement.

6. Neutrality

- a. The Tribe shall advise Eligible Employees that it is neutral to their selection of an exclusive representative, if any, and shall not directly or indirectly state or imply opposition to the selection by Eligible Employees of an exclusive representative, if any, or preference for or opposition to any particular employee organization as an exclusive representative and shall so instruct all appropriate Managers.
- b. For the purposes of this Agreement "Neutrality" means that Manager or management shall not express any opinion for or against Union representation of any existing or proposed bargaining unit composed of Eligible Employees, or for or against the Union or any officer, member or representative thereof in their capacity as such. Furthermore, Manager or management shall not make any statements or representations as to the potential effects or results of Union representation on the Tribe or any Eligible Employee or group of Eligible Employees. The Union also agrees that, neither the Union nor any of its officers, representatives, agents or employees will express publicly any negative comments concerning the motives, integrity or character of the Tribe, the Tribe's management contractor, in its capacity as the Tribe's management contractor, or any of their officers, agents, directors or employees.
- c. The Union and its representatives will not directly or indirectly coerce or threaten any employee in an effort to obtain authorization cards.

7. Valid Authorization Cards

For the purposes of this Agreement, a valid written authorization card shall state specifically that by signing the card, the Eligible Employee, agrees to be represented by the Union. The Union shall furnish the Tribe with a Union Authorization Card and it shall be set forth as Attachment 2 of this Agreement, and made part of this Agreement.

8. Authorization to Negotiate Collective Bargaining Agreement Upon Recognition

If the Union is recognized as the exclusive collective bargaining representative as provided in Section 5 of this Agreement, the Union shall be entitled to represent Eligible

Employees in the defined unit in any matters arising under the TLRO according to the following schedule: (i) for the first 120 days following the effective date of recognition, the Tribe and the Union shall engage in an informal exchange of information and documents about terms and conditions of employment and in non-binding problem solving meetings about workplace concerns; and (ii) following completion of the period in (i), negotiate in good faith for a Collective Bargaining Agreement covering Eligible Employees on wages, hours and other terms and conditions of employment. However, recognizing that operational changes may occur, the Union agrees that in the event the Tribe meets with the Union after recognition but prior to the completion of contract negotiations and proposes an operational change that may have an impact on Eligible Employees, the Union agrees that it will not unreasonably withhold agreement that those changes can be made without bargaining with the Union. This agreement does not include wages, benefits or other economic conditions with respect to Eligible Employees. If the Parties are unable to reach agreement within one hundred and twenty (120) days following commencement of negotiations for a Collective Bargaining Agreement, all unresolved issues shall be submitted for resolution to the Tribal forum designated by the Tribe pursuant to the TLRO. If the Tribal forum does not resolve all the issues to the mutual satisfaction of the Tribe and the Union within sixty (60) working days of submission, then the remaining issues shall be submitted to arbitration before an arbitrator selected in accordance with the TLRO. The arbitrator shall consider, but not be limited to, the following factors:

- (i) Wages, hours and other terms and conditions of employment of the Tribe's competitors, a list of which shall be mutually agreed upon by the Union and the Tribe;
- (ii) Size and type of the Tribe's operations at the Casino and related facilities as defined herein;
- (iii) The Tribe's financial capacity (if the Tribe places this in issue);
- (iv) Cost of living as it affects the Eligible Employees and measured pursuant to an agreed upon index;
- (v) Regional and local market conditions;
- (vi) Cost increases at the Casino.
- (vii) Factors uniquely applicable to the security needs of a gaming facility;
- (viii) Stipulations of the parties;
- (ix) Employees' productivity; and
- (x) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining mediation, fact-finding, arbitration or otherwise between the parties.

The arbitration shall select the individual final proposal of one of the parties for each of the individual remaining unresolved issue(s), and shall issue a final and binding award incorporating the complete proposal(s) of the Tribe or the Union without modification.

9. Regulatory and Legislative Support

The Union hereby agrees to actively support before the appropriate federal, state, and local administrative, bureaucratic, regulatory and legislative bodies for the Tribe's efforts to remain competitive in, and gain entry to, casino and related markets in which the Tribe chooses to participate pursuant to the IGRA. For purposes of this Agreement "active support" includes letter writing, consultation with and lobbying of elected and appointed officials, availability of members for events in furtherance of the Tribe's goals, opposition to competitor's efforts to prohibit the Tribe's entry into tribal government gaming on its lands in Sonoma or Marin Counties, California, and assistance with local government relations.

10. Dispute Resolution

The Parties agree that any disputes over the interpretation or application of this Agreement shall be submitted first to mediation arranged through a mutually agreeable mediator such as, by way of illustration only, the American Arbitration Association. If after a minimum of 15 days, a mutually satisfactory resolution is not produced by mediation, or if after a maximum of 15 days a mutually agreeable mediator is not chosen after impasse over any dispute, then either the Tribe or the Union may submit the dispute(s) to expedited and binding arbitration before an arbitrator selected in accordance with TLRO. The arbitrator shall not modify, add to or subtract from this Agreement. The arbitrator shall follow the arbitration procedures prescribed in the TLRO. The arbitrator shall have the authority to order the non-compliant party to comply with this Agreement. The Parties hereto agree to comply with any order of the arbitrator, which shall be final and binding, and shall be enforceable as provided in the TLRO.

The Dispute Resolution procedure described in this Section 10 of this Agreement, shall not be used to resolve any issues that are unresolved during the negotiation of a collective bargaining agreement. The parties shall rely upon the method to resolve those unresolved issues arising during collective bargaining negotiations specified in Section 8 of this Agreement.

11. Picketing and Other Economic Activity

During the term of this Agreement, the Union will not engage in any strike, picketing or other economic activity at the Casino, and the Tribe will not engage in a lockout of the Eligible Employees. Notwithstanding the foregoing, if the Tribe recognizes any union besides the Union as the exclusive collective bargaining representative of Eligible Employees, or any of them, this paragraph shall terminate immediately and without notice.

12. Severability

Should any portion of this Agreement be voided or held unlawful or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect for the duration of this Agreement.

13. Compliance with TLRO

Nothing herein shall be construed to be inconsistent with or derogate from the obligation of the Union and the Tribe to conform to the TLRO.

14. Miscellaneous

- a. **Amendment or Modification.** This Agreement may be modified or amended only by a written instrument executed by the Tribe and the Union, pursuant to the same authorizations used to execute this Agreement in its original form.
- b. By this Agreement, the Tribe does not waive, limit, or modify its sovereign immunity from suit except as provided in this Section. The Tribe expressly waives in a limited manner its immunity from suit and consents to be sued in any court of competent jurisdiction, including federal and state courts in California with respect to matters arising out of this Agreement, the TLRO and/or any collective bargaining agreement or other agreement entered into by the Tribe and the Union. Said waiver is specifically limited to the following actions and remedies:
 - (i) **MONETARY DAMAGES.** The enforcement of an award of money damages by arbitration pursuant to this Agreement; provided that the arbitrator(s) and/or court shall have no authority or jurisdiction to execute against any assets of the Tribe except for assets of the casino and related facilities as defined herein (not including the real property or the physical building structure or fixtures) and future undistributed proceeds of the casino and related facilities as defined herein.
 - (ii) **INJUNCTIVE RELIEF AND SPECIFIC PERFORMANCE.** The enforcement of a determination by arbitration pursuant to this Agreement that mandates the Tribe to specifically perform any obligation under this Agreement.
 - (iii) **ACTION TO COMPEL ARBITRATION.** An action to compel arbitration pursuant to this Agreement.
- c. **Entire Agreement.** This Agreement is the entire agreement between the Parties and supersedes all prior written and oral agreements, if any, with respect to the subject matter hereof.
- d. **Governing Law.** This Agreement shall be governed by and construed pursuant to the Compact and the TLRO and all of their attendant articles and references to legal jurisdictions.
- e. **Mutual Good Faith.** Throughout the term of this Agreement, the Parties agree to exercise good faith and to observe the covenants herein.

- f. **Standard of Reasonableness.** Unless specifically provided otherwise, all provisions of this Agreement and all collateral agreements shall be governed by a standard of reasonableness.
- g. **Plain Meaning.** Where terms, phrases or words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The edition current on January 1, 2003 of Webster's Third New International Dictionary of the English Language, Unabridged shall be considered as providing ordinarily accepted meanings.
- h. **Captions.** The captions of each paragraph, section, or subsection contained in the Agreement are for ease of reference only and shall not affect the interpretation or meaning of this Agreement.
- i. **Authorization.** Chairman, Greg Sarris, has been authorized by an appropriate resolution of the Tribe to execute this Agreement. The Union warrants that the California Political Director, Jack Gribbon, has been authorized to execute this Agreement on behalf of the Union.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written.

**FEDERATED INDIANS OF
GRATON RANCHERIA**

By: Greg Sarris
Greg Sarris
Its: Chairman

**HOTEL EMPLOYEES AND
RESTAURANT EMPLOYEES
INTERNATIONAL UNION, AFL-CIO**

By: Jack Gribbon
Jack Gribbon
Its: California Political Director

PROJECT LABOR AGREEMENT
FOR
THE SONOMA CASINO AND RESORT PROJECT
SONOMA COUNTY, CALIFORNIA

1. INITIAL PROVISIONS

1.1. This Project Labor Agreement ("Agreement") is entered into by the Federated Indians of Graton Rancheria ("Primary Employer" or "the Tribe") and the Sonoma, Lake, Mendocino County Building & Construction Trades Council ("Council") and its affiliated local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions."

1.2. The Project is a casino and hotel resort to be located on land located in Marin or Sonoma Counties, California, and includes any other associated buildings or facilities, such as a water treatment plant or a sewage treatment plant (the "Project"). The Primary Employer is the owner of the Project.

1.3. The Project will be constructed on Tribal land, and the Tribe, through its employees or agents, will exercise control over the site and retain overall authority for the construction of the Project. The Tribe requires that the hiring/referral/layoff preference for qualified Native Americans in performing construction work on the Project provided in Sections 5.5 and 5.6 be observed by all Unions and Employers signatory to this Agreement. In addition, subject to the provisions of an Applicable Agreement (as defined in Section 3.1), the Tribe shall retain the right to control and coordinate all Project construction work by determining work scheduling, including uniform start times, the necessity for and the times of shift work, by directly enforcing any drug and alcohol abuse policy which is agreed to by any contractor or subcontractor and the Council, and otherwise directly removing any employee whether employed directly or by any

contractor or subcontractor for breach of reasonable rules promulgated by the Tribe governing conduct on the job. The Tribe shall have the right upon receipt of the written complaint of any employee to order corrective action necessary to maintain reasonable and lawful standards for work place health and safety. The Tribe will also have the right to participate in monthly labor/management meetings, participate in pre-job conferences and mark-up meetings, and, at its sole option, to participate in the resolution of any grievances. The Tribe shall have the authority to inspect the site at any time.

1.4. As provided below, contractors and subcontractors performing certain construction work on the Project will be subject to this Agreement by executing the attached Employer Agreement to be Bound (all of whom, including the Primary Employer, are individually and collectively referred to as "Employer" or "Employers").

1.5. The Unions are labor organizations whose members are construction industry employees.

1.6. It is understood and agreed by and between the Parties to this Agreement that the final plans for the Project may be subject to modifications and approval by those public agencies possessing lawful approval authority over the Project and that this Agreement applies to the Project as it is finally approved by such entities and agencies.

1.7. A large labor pool represented by the Unions will be required to execute the work involved in the Project. Employers wish, and it is the purpose of

this Agreement, to ensure that a sufficient supply of skilled craft workers are available at the Project, that all construction work and related work performed by the members of the Unions on this Project shall proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions.

1.8. In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions and to protect the Project against strikes and lockouts and other interference with the process of the work.

1.9. In the interest of the future of the construction industry in the local area, of which the Unions are a vital part, and to maintain the most efficient and competitive posture possible, the Unions pledge to work and cooperate with the management of the Project to produce the most efficient utilization of labor and equipment in accordance with this Agreement.

2. SCOPE OF AGREEMENT

2.1. This Agreement covers all on-site construction, alteration, painting or repair of buildings, structures and other works and related activities for the Project which is within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project, including pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, site preparation, survey work and

soils and material inspection and testing, demolition, all on-site fabrication work provided such work is within the fabrication provision of a local master or national agreement of one of the Unions, demolition of existing structures, and all construction, demolition or improvements required to be performed as a condition of approval by any public agency. On-site fabrication work includes work done for the Project in temporary yards or areas near the Project. All fabrication work over which the Owner possesses the right of control, including the fabrication of air-handling systems and ducts, and HVAC sheet metal work, and which is traditionally claimed as on-site fabrication shall be performed on-site, but excluding all fabrication work for the Employer's gaming, surveillance and security operations. For the convenience of the Primary Employer or other Employers, such work may be performed off-site, provided it shall be performed in accordance with the union standards established by this Agreement for the appropriate craft Union or by a fabrication agreement approved by the craft's International Union. On site construction shall also include the site of any batch plant constructed solely to supply materials to the Project. All work within the scope of this Agreement is referred to as "Covered Work" in this Agreement.

2.2. Notwithstanding any other provision of this Agreement, this Agreement shall not apply to:

2.2.1. Work of non-manual employees, including but not limited to superintendents, supervisors, staff engineers, inspectors and testers, quality control, quality assurance personnel, timekeepers, guards, safety personnel,

emergency medical and first aid technicians and other professional, engineering, administrative, security and management employees.

2.2.2. Work performed and undertaken by state, county, city or other governmental bodies, or their contractors or by public utilities and/or telephone companies or their contractors on or near or leading to or into the Project site covered by this Agreement.

2.2.3. All off-site maintenance on leased equipment and on site supervision of such work.

2.2.4. Work performed by an equipment vendor's own labor forces for warranty, installation, repair or maintenance of the vendor's equipment if required by the vendor's warranty agreement.

2.2.5. Calibration, testing, laboratory or specialty testing or inspections, checking and start-up of gaming, security and surveillance equipment or systems.

2.2.6. Specialized or technical work requiring specialized training, unique skills, or a level of specific technical experience which employees represented by the Unions do not possess.

2.2.7. Employees and entities engaged in off-site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of gaming, security or surveillance equipment, materials or machinery or involved in deliveries to and from the Project site, excepting local deliveries of all major construction materials including fill, ready mix, aggregate, concrete and asphalt

which are covered by this Agreement and local deliveries of furniture, fixtures and equipment from any offsite warehouse maintained by the Employers.

2.2.8. Employees of the Employers (or third party specialty vendors) engaged in on-site equipment installation and warranty work for data processing, internal communication, gaming equipment electronics and software installation, all other electronic devices, and all low voltage wiring related in any way to the Primary Employer's gaming, security and surveillance operations, provided, however, that rough-in work for such equipment and devices is Covered Work.

2.2.9. Employees of "Artisans" who are individuals or entities who the Employers may (or may not) employ directly to create unique, one-of-a-kind decorative elements for incorporation into the building. The design, illustration, and detailing of these one-of-a-kind decorative elements can only be fully completed in the field and can only be performed by that individual or entity. The duties of Artisans shall be to direct trades people, as well as provide assistance in the unloading, assembly, installation, and distribution of unique, one-of-a-kind decorative elements as defined above. Artisans shall perform all final adjustments, finishing touches, and final painting of such one-of-kind decorative elements, provided they are assisted by a trades person.

2.2.10. The following activities which are generally associated with casino installation and furnishing:

2.2.10.1. Slot Machines

1. Transport & unloading
2. Bolting & unbolting

3. Drilling of holes
4. Mounting of bill changers
5. Repair & installation of plastic laminate
6. Installation of top sections and additions
7. Installation & removal of all slot machines including slant tops and novelty machines
8. Furnish, unload & installation of all slot signage
9. Furnish, unload & installation of all security cameras and devices.

2.2.10.2. Slot Machine Bases

1. Transportation & unloading
2. Fastening together
3. Drilling of holes
4. Cutting, altering, repair & modification
5. Installation of filler pieces
6. Repair & installation of laminate and corner guards
installation & removal of all slot machine bases

2.2.10.3. Gaming Tables and Furniture

1. Transportation & unloading
2. Assembly & disassembly
3. Cutting, alteration, repair & modification
4. Installation of all gaming tables and fixed furniture
5. Repair and installation of laminates, upholstery and fabrics
6. Installation & removal of all gaming tables and furniture, including but not limited to Black Jack, Roulette Pai Gow, Poker, Baccarat, Mini Baccarat, Big Six Wheel Tables, Caribbean Stud, etc., including all fixed stools & chairs, etc. that accompany gaming tables
7. All pit stands and related fixed furniture accessories

2.2.10.4. Figurines, Statues, Table Ornaments, Artifacts, Wall Hangings and Ornamentations

1. Transportation & unloading
2. Assembly and disassembly
3. Installation & removal
4. Cutting, alterations, repair & modification
5. The building and fabrication of all landscaping items, e.g. rock scapes, trees, etc.

6. The installation of all decorative items in accordance with Schedule A

2.2.10.5. Locks and Locking Devices

1. Installation, repair, removal and reinstallation, transportation, movement, record keeping, etc., prior to occupancy

3. SUBCONTRACTING

3.1. Primary Employer and each other Employer agree that it will subcontract Covered Work only to a person, firm, or corporation who is or becomes party to this Agreement and who is or becomes signatory to either: (1) a local multi-employer collective bargaining agreement with the craft Union having traditional and customary jurisdiction over the work, (2) an area agreement with the craft Union having traditional and customary jurisdiction over the work, (3) a regional agreement with the craft Union having traditional and customary jurisdiction over the work (collectively the local, area or regional agreement is referred to as the "Master Agreement"), or, only in the case of a national contractor, (4) a national agreement with the International Union of the craft Union having traditional and customary jurisdiction over the work. Any Employer performing Covered Work on the Project shall, as a condition to working on the Project, become signatory to and perform all work under the terms of this Agreement and the applicable local, area, regional or national agreement (the "Applicable Agreement"). Before being authorized to perform any Covered Work, Employers (other than Primary Employer) shall become a party to this Agreement by signing an Employer

Agreement to be Bound, which is provided as Attachment A to this Agreement. Every Employer shall notify the Council and the State Council in writing within three business days after it has subcontracted work, and shall at the same time provide to the Council and the State Council a copy of the executed Employer Agreement to be Bound.

3.2. Notwithstanding Section 3.1, an Employer who: (a) is signatory to a master, area, or regional agreement with one or more of the Unions signatory to this Agreement, or is signatory to a national agreement with one or more of the International Unions of the craft Unions signatory to this Agreement, and (b) contracts for Covered Work within the traditional and customary jurisdiction of one or more of the signatory Unions but those Unions are not parties to the Applicable Agreement with that Employer, then (c) the Employer shall comply with the terms and conditions of the agreements allowed by 3.1 above for those Unions with traditional and customary jurisdiction over that Covered Work for the duration of the work, but need not become signatory to those additional agreements allowed by 3.1 above. All provisions of Article 14, Jurisdiction, continue to apply to all Covered Work.

3.3. Notwithstanding Section 3.1 and 3.2, any Employer not already bound to an Applicable Agreement, who signs and becomes bound to such a multi-employer, area, regional, or national agreement to participate on this Project, shall not be required to apply the terms of that agreement to any other construction

project in which such Employer is already engaged, or which such Employer has already been contractually bound to perform.

3.4. Nothing in this Agreement shall in any manner whatsoever limit the rights of the Primary Employer, or any other Employer, to subcontract work or to select its contractors or subcontractors, provided, however, that all Employers, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. Primary Employer and every other Employer shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement and the Master Agreement. If any Employer fails to provide the Council and State Council with the Employer Agreement to be Bound executed by its subcontractor, that Employer shall be liable for any contributions to any trust funds that the subcontractor, or any subcontractor to that subcontractor, fails to make.

4. WAGES AND BENEFITS

4.1. All employees covered by this Agreement (including foremen and general foremen if they are covered by the Master Agreement) shall be classified and paid wages, other compensation including but not limited to travel, subsistence, show up and shift premium pay, and contributions made on their behalf to multi-

employer trust funds, all in accordance with the then current multi-employer Master Agreement of the applicable Union.

4.2. Any special interest bargaining which establishes wage rates, classifications, zones, or wage escalations which apply exclusively to the Project will not be recognized.

5. UNION RECOGNITION

5.1. The Employers recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of each Union.

5.2. All employees performing Covered Work shall be or shall become and then remain members in good standing of the appropriate Union as a condition of employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later.

5.3. The Unions shall be the source of all craft employees for Covered Work for the Project. Employers agree to be bound by the hiring practices of the respective Union, including hiring of apprentices, and to utilize its registration facilities and referral systems. The Employer shall have the right to determine the competency of all employees, to determine the number of employees required and to select the employees to be hired.

5.4. In the event the referral facilities maintained by the Unions do not refer the employees as requested by the Employer within a forty eight (48) hour period after such requisition is made by the Employer (Saturdays, Sundays and Holidays excepted), the Employer may employ applicants from any source.

5.5. The Unions represent that hiring halls and referral systems will be operated in a non-discriminatory manner, and in full compliance with all applicable laws and regulations that require equal employment opportunities and prohibit discrimination on the basis of union membership. The Unions further agree that for work on the Project they shall offer a referral and/or hiring preference to qualified Native Americans pursuant to Section 5.6.

5.6. The Employers and Unions shall provide Native Americans living on or near Tribal land with a referral, hiring and layoff preference for all Covered Work for which the Native American is qualified. Native Americans will be classified and assigned work that they are qualified to perform. The Employers and Unions shall provide Native Americans employed on the Project with information about the requirements and procedures for enrolling in apprenticeship programs operated by Employers and Unions.

5.7. All job and/or referral applicants who fail a pre-employment drug test shall be given a second test at the Employer's direction and/or discretion.

6. STRIKES AND LOCKOUTS

6.1. During the life of this Agreement, the Unions, their agents, their representatives and their employees agree that they shall not incite, encourage, condone or participate in any strike, walkout, slowdown, sit-down, stay-in, boycott, sympathy strike, picketing or other work stoppage for any cause whatsoever with respect to this Project; and it is expressly agreed that any such action is in violation of this Agreement. In the event of a violation of this provision, any Employer shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Union(s), and/or any of its agents, representatives or employees.

6.1.1. Failure of the Unions or any employee to cross any picket line established by the Unions and/or any union, signatory or non-signatory to this Agreement, or the picket or demonstration line of any other organization, at or in proximity to the Project is a violation of this Agreement. Employers and Unions shall take all steps necessary to ensure compliance with this section, and to ensure uninterrupted construction and the free flow of traffic in the Project area for the duration of this Agreement.

6.1.2. Employers may discharge any employee violating Section 6.1, and any such employee will not be eligible thereafter for referral and/or employment at the Project for a period of 100 days.

6.2. Notwithstanding the provisions of Section 6.1 above, it is agreed that a Union retains the right to withhold the services of its members from a particular

contractor or subcontractor who fails to make timely payments to the Union's benefit plans, or fails to timely pay its weekly payroll, in accordance with its agreements with the Union; provided, however, that the Union shall give four (4) days notice to the Primary Employer prior to withholding the services of its members, and that in the event the Union or any of its members withholds their services from such contractor or subcontractor, Primary Employer shall have the right to replace such contractor or subcontractor with any other contractor or subcontractor who executes the Agreement to be Bound.

6.3. In the event that any applicable labor agreement expires and the parties to that agreement fail to reach agreement on a new contract by the date of expiration, a Union shall continue to provide employees to the Employers working on the Project under all the terms of the expired agreement until a new agreement is negotiated, at which time all terms and conditions of that new agreement shall be applied to Covered Work at the Project, except to the extent they conflict with any provision of this Agreement. In addition, if the new labor agreement provides for wage or benefit increases, then any Employer shall pay to its employees who performed Covered Work at the Project during the hiatus between the effective dates of such labor agreements, an amount equal to any such wage and benefit increases established by the new labor agreement for such work performed. The Unions agree that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity or other violations of Article 6

affecting the Project by any local Union involved in the renegotiation of area local collective bargaining agreements.

7. SHIFT TIMES AND HOLIDAYS

7.1. The standard work day shall consist of eight (8) hours of work between 7:00 a.m. and 5:30 p.m. with one-half hour designated as an unpaid period for lunch. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

7.2. Recognized holidays shall be as follows: New Year's Day, Martin Luther King Jr. Day, Memorial Day, Fourth of July, Labor Day, Veterans' Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. In no event shall work be performed on Labor Day, except in cases involving an immediate threat to life or property.

8. GRIEVANCE PROCEDURE

8.1. It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than jurisdictional disputes or successorship) shall be considered a grievance. Questions

arising out of or involving the interpretation of a Master Agreement shall be resolved under the grievance procedure provided in that Master Agreement.

8.2. A grievance shall be considered null and void if not brought to the attention of the Contractor(s) within five (5) working days after the incident that initiated the alleged grievance occurred or was discovered.

8.3. Grievances shall be settled according to the following procedure:

Step 1

The Steward and the grievant shall attempt to resolve the grievance with the craft supervisor.

Step 2

In the event the matter remains unresolved in Step 1 above, within five (5) working days after notice to the Unions, the alleged grievance in writing may then be referred to the Business Manager of the Craft Union and the Labor Relations representative at the Contractor for discussion and resolution. A copy of the written grievance shall also be mailed/faxed to the Primary Employer.

Step 3

In the event the matter remains unresolved in Step 2 above within five (5) working days, the grievance in writing may then be referred to the representative of the Craft Union involved and the Manager of Labor Relations of the Contractor or the Manager's designated representative, and the Primary Employer for discussion and resolution.

Step 4

If the grievance is not settled in the preceding steps within five (5) working days, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a copy to the Primary Employer. An Arbitrator selected from a permanent panel of Arbitrators consisting of Ken Silbert, William Engler,

Barbara Chvany and Bonnie Bogue will hear grievances filed pursuant to this Article. The arbitrator will be selected by rotation from the permanent panel, rotating in the order set forth above. The Primary Employer shall keep a record of the sequence and shall notify the parties to the grievance as to the next arbitrator in the order of rotation. In the event, the Arbitrator is not available in a reasonable time to hear the grievance and the parties have not mutually agreed to extend the time for arbitration, the next arbitrator in order of rotation will be selected. A reasonable time is defined as fifteen (15) days where the grievance concerns employment discharge and thirty (30) days for all other grievances.

8.4. The Arbitrator's decision shall be submitted in writing and shall be final and binding on all parties signatory to this Agreement. The expense of arbitration, including the cost of the Arbitrator and the cost of necessary expenses required to pay for facilities for the hearing of cases, shall be borne equally by both parties. The Arbitrator's decisions shall be confined to the question posed by the grievance and the Arbitrator shall not have authority to modify, amend, alter, add to or subtract from, any provision of this Agreement.

8.5. The Primary Employer and other Employers, as well as the Unions, may bring forth grievances under this Article.

8.6. Any award or resolution under Article 9 shall be prospective and shall not require any back pay for work performed unless the assignment is a knowing violation of a well-established resolution under the Plan.

9. JURISDICTIONAL DISPUTES

9.1. The assignment of work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

9.2. All jurisdictional disputes between or among the Building and Construction Trades Unions and their employees, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

9.3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

9.4. Each Contractor will conduct a pre-job conference with the Council prior to commencing work. The Primary Employer and any general contractor will be advised in advance of all such conferences and may participate if they wish.

9.5. In case of a jurisdictional dispute involving a Union or Unions not party to the Plan, such dispute will be referred to the General Presidents of the Unions involved and the Employer for resolution.

9.6. The Unions and the Employers, in making their determination regarding jurisdiction, shall have no authority to assign work to a double crew, that is, to more employees than the minimum required to perform the work involved, or to assign work to employees who are not qualified to perform the work involved. This does not prohibit establishment of composite crews where more than one (1) employee is needed for the job, so long as assignments of work are consistent with Section 9.1.

9.7. This Article 9 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

10. JOINT LABOR/MANAGEMENT MEETINGS

10.1. During the period of any work performed under this Agreement, a joint Labor/Management meeting will be held on an approximately monthly basis or more frequently as needed between the Primary Employer, the contractors and subcontractors, and the signatory Unions. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and contractors performing work at the Project. These monthly (or more frequent) meetings will also include discussion of the scheduling and productivity of work performed at the Project.

10.2. A Pre-Job Conference will be held prior to the commencement of work to establish the scope of work in each Contractor's contract. When a contract has

been let to a Contractor(s) covered by this Agreement, a Pre-Job Conference and/or Mark-Up Meeting shall be required upon request of any Union, Contractor or the Primary Employer.

10.3. The Primary Employer will schedule and attend all Pre-Job Conferences and Mark-Up Meetings.

11. SUCCESSORSHIP

11.1. This Agreement is and shall be binding and legally effective upon any successor in interest to Primary Employer whether by merger or acquisition and upon any entity which acquires title to the Project whether by sale, lease, or other transfer, or contribution to partnership, joint venture or other entity; provided, however, that this Agreement shall not be binding upon any successor or transferee who takes title to the Project by reason of the default of Primary Employer pursuant to any loan or partnership agreement or because of the bankruptcy or insolvency of Primary Employer. Any agreement for a sale, lease, or other transfer, or contribution of Primary Employer or an agreement for a merger or acquisition including ownership or control of Primary Employer shall include an express assumption of the obligations of this Agreement, including this successorship provision. Primary Employer shall provide the State Council and the Council with notice in writing at the close of any sale, acquisition, merger, lease, other transfer or contribution covered by this Agreement and an original executed assumption of this Agreement. Any sham transfer is a breach of this clause.

11.2. The parties hereto agree that in the event Primary Employer breaches Section 11.1 above, the actual damages to the Unions or their members would be unreasonably difficult, costly, inconvenient, or impracticable to calculate. Accordingly, the parties agree to liquidated damages which bear a reasonable relationship to the actual harm suffered.

11.3. In the event of a breach of Section 11.1 above, Primary Employer shall pay \$30.00 for each hour that work was performed on the Project within the scope of this Agreement by employees of contractors or subcontractors who are not signatory to this Agreement. The liquidated damages shall be paid as follows: Fifteen Dollars (\$15.00) per hour to the qualified pension plan and fifteen Dollars (\$15.00) per hour to the qualified health and welfare plan of the Union(s) having jurisdiction over the work performed by the contractor(s) or subcontractor(s) not signatory to this Agreement. The parties agree that a Union shall enforce, collect and receive liquidated damages pursuant to Article 11 on behalf of its qualified pension plan and its qualified health and welfare plan. The qualified pension plans and the qualified health and welfare plans shall have no right to independently enforce the provisions, including but not limited to, the liquidated damage provisions contained in Article 11.

11.4. In no event shall the liquidated damages payable under this Section exceed a total amount of \$6,000,000. In the event that pending claims would result in a payment in excess of \$6,000,000, the total claims shall be prorated based on the

number of hours worked by contractors or subcontractors in violation of Article 3.1 so that the total payment of claims does not exceed \$6,000,000.

11.5. Upon execution and delivery of an agreement assuming all the obligations of this Agreement by a financially responsible successor pursuant to the requirements of Section 11.1, Primary Employer shall be released from liability for the payment of liquidated damages under Section 11.3 and Primary Employer shall have no liability for any breach of this Agreement by a successor employer or contractor.

11.6. This Article 11 shall be enforceable in any court of competent jurisdiction, and shall not be subject to the grievance procedure of Article 8.

12. SUPPLEMENTAL DUES

12.1. Each Employer at every tier who performs Covered Work, in addition to any other wage or fringe benefit obligations, shall pay an additional five cents (\$.05) for each hour worked by employees covered by this Agreement. In the event that an employee executes a voluntary dues deduction authorization and assignment of wages form in favor of a Union, the sum of five cents (\$.05) for each hour of work performed pursuant to this agreement as and for dues, shall be transmitted by the Employer to the Union. The voluntary dues deduction authorization and assignment of wages form executed by the employee shall be deposited with the appropriate Trust Fund Office and the Employer shall be notified in writing at the time of the dispatch (or later in the event the voluntary

dues deduction authorization and assignment of wages form is executed after dispatch) of the name, Social Security number, and effective date for the commencement of supplemental dues deductions. Dues deductions made by the Employer pursuant to this provision shall be reported and paid to the appropriate Trust Fund Office at the same time and with the same reporting form used for all other trust fund payments.

13. GENERAL PROVISIONS

13.1. If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive legislative, judicial or administrative branch of the federal or state government, the Employers, the Council and the Unions shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article or provision which will satisfy the objections to its validity and which, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question.

13.2. If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

13.3. Except as enumerated in this Agreement, all other terms and conditions of employment described in the Master Agreement shall apply.

13.4. The provisions of this Agreement shall take precedence over conflicting provisions of any Applicable Agreement with respect to a Union.

13.5. Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

13.6. This Agreement may be executed in counterparts.

13.7. Any notices required under this Agreement shall be given as follows:

To Primary Employer:

Greg Sarris, Chairman
Federated Indians of Graton Rancheria
P.O. Box 14428
Santa Rosa, CA 95402

With a copy to (which shall not constitute notice to a party):

John A. Maier, Esq.
California Indian Legal Services
510 16th Street, Fourth Floor
Oakland, CA 94612
Telephone: (510) 835-0284
Facsimile: (501) 835-8045

To the Council:

Bill Scott, Executive Secretary
Sonoma, Mendocino, Lake Building and
Construction Trades Council
1700 Corby Ave, #C
Santa Rosa, CA 95407
Telephone: (707) 576-7299

With a copy to:

Marc D. Joseph
Adams Broadwell Joseph & Cardozo
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080
Telephone: 650-589-1660

Either party may notify the other in writing if its person designated to receive notice is changed.

14. MANAGEMENT RIGHTS

14.1. Except as expressly limited by a specific provision of this Agreement, the Primary Employer and each other Employer retains full and exclusive authority for the management of operations including, but not limited to: the right to direct the work force, determine the number of employees to be hired and the qualifications thereof; the promotion, transfer, layoff of employees; or the discipline or discharge for just cause of employees; the assignment and schedule of work; the promulgation of reasonable work rules; timing and number of employees to be utilized for overtime work; the right to enforce any drug and alcohol abuse policies which are agreed to by any contractor or subcontractor and a Union; and otherwise to directly remove any employee whether employed directly or by any contractor or subcontractor for breach of reasonable rules promulgated by Employers governing conduct on the job. No rules, customs, or practices, which limit or restrict productivity or efficiency of the individual, as determined by the Employers and/or joint working efforts with other employees shall be permitted or observed, so long as assignments of work are consistent with Section 9.1.

15. LIMITED WAIVER OF SOVEREIGN IMMUNITY

15.1. By this Agreement, the Tribe does not waive, limit, or modify its sovereign immunity from suit except as provided in this Article. The Tribe expressly waives in a limited manner its immunity from suit and consents to be

sued in any court of competent jurisdiction, including federal and state courts in California with respect to matters arising out of this Agreement. Said waiver is specifically limited to the parties to this Agreement and to the following actions and remedies:

15.1.1. MONETARY DAMAGES. The enforcement of an award of money damages by arbitration pursuant to this Agreement; provided that the arbitrator(s) and/or court shall have no authority or jurisdiction to execute against any assets of the Tribe except for assets of the casino and related facilities as defined herein (not including the real property or the physical building structure or fixtures) and future undistributed proceeds of the casino and related facilities as defined herein.

15.1.2. INJUNCTIVE RELIEF AND SPECIFIC PERFORMANCE. The enforcement of a determination by arbitration pursuant to this Agreement that mandates the Tribe to specifically perform any obligation under this Agreement.

15.1.3. ACTION TO COMPEL ARBITRATION. An action to compel arbitration provided by this Agreement.

15.1.4. ACTION TO ENFORCE ARTICLES 9 AND 11. An action to enforce the provisions of Article 9 or Article 11 of this Agreement.

16. TERM OF AGREEMENT

16.1. The term of this Agreement shall commence on the date indicated below as the date of execution, and shall continue in effect for a period of five (5)


years ("the Continuation Period") following completion of all Covered Work as defined in Article 2. Covered Work shall be deemed completed upon "final acceptance" of the Project by the owner. During the Continuation Period, "Covered Work" shall be limited to Covered Work that is contracted out to a contractor in the construction industry and that costs at least \$50,000, unless there are no union contractors able to perform the construction maintenance work in a timely manner acceptable to the Primary Employer, or in the case of an emergency where the work must be performed immediately.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and effective as of _____, 2003.

Federated Indians of Graton Rancheria
Primary Employer


By: Greg Sarris
Tribal Chairman

Sonoma, Lake, Mendocino County
Building & Construction Trades Council


By: Bill Scott
Executive Secretary

UNIONS

BAY COUNTIES DISTRICT
COUNCIL OF PAINTERS NO. 16

By: Gene Massey

BOILERMAKERS LOCAL 549

By: Frank Jernst

BRICKLAYERS AND ALLIED
CRAFTS LOCAL 3

By: David Bach

CARPENTERS UNION LOCAL 751

By: Wm Juytin

CARPET, LINOLEUM & SOFT TILE
WORKERS UNION LOCAL 12

By: District Council 16

GENERAL TRUCK DRIVERS,
WAREHOUSEMEN AND HELPERS
UNION LOCAL 624

By: Edith A. Minnie

GLAZIER'S UNION LOCAL 718

By: District Council 16

HEAT & FROST INSULATORS &
ASBESTOS WORKERS UNION
LOCAL 16

By: Steve Deede

HOD CARRIERS &
CONSTRUCTION LABORERS
LOCAL 291

By: _____

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
LOCAL 551

By: Steven A. Benjamin

INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS
UNION LOCAL NO. 8

By: _____

IRONWORKERS UNION
LOCAL 377

By: _____

IRONWORKERS UNION
LOCAL 378

By: _____

LATHERS UNION LOCAL 68L

By: _____

UNIONS

BAY COUNTIES DISTRICT
COUNCIL OF PAINTERS NO. 16

By: *Gene Massey*

BOILERMAKERS LOCAL 549

By: _____

BRICKLAYERS AND ALLIED
CRAFTS LOCAL 3

By: *David Bach*

CARPENTERS UNION LOCAL 751

By: *Wm Justice*

CARPET, LINOLEUM & SOFT TILE
WORKERS UNION LOCAL 12

By: *District Council 16*

GENERAL TRUCK DRIVERS,
WAREHOUSEMEN AND HELPERS
UNION LOCAL 624

By: *Alfred M. M...*

GLAZIER'S UNION LOCAL 718

By: *District Council 16*

HEAT & FROST INSULATORS &
ASBESTOS WORKERS UNION
LOCAL 16

By: *Steve Decker*

HOD CARRIERS &
CONSTRUCTION LABORERS
LOCAL 291

By: _____

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
LOCAL 551

By: *Steven A. Benjamin*

INTERNATIONAL UNION OF
ELEVATOR CONSTRUCTORS
UNION LOCAL NO. 8

By: _____

IRONWORKERS UNION
LOCAL 377 DISTRICT COUNCIL
OF IRON WORKERS OF THE STATE
OF CALIFORNIA AND VICINITY

By: *Joe Standley*

IRONWORKERS UNION
LOCAL 378

By: _____

LATHERS UNION LOCAL 68L

By: _____

MILLWRIGHTS LOCAL 102

By: _____

OPERATING ENGINEERS
LOCAL 3

By: Donald R. Owen

OPERATIVE PLASTERERS &
CEMENT MASONS LOCAL 300

By: _____

PLUMBERS UNION LOCAL 38

By: _____

ROOFERS UNION LOCAL 81

By: Carl Owen

SHEET METAL WORKERS UNION
LOCAL 104

By: Bruce Lord

SPRINKLER FITTERS LOCAL 483

By: Stanley H. Smith

MILLWRIGHTS LOCAL 102

By: _____

OPERATIVE PLASTERERS & CEMENT
MASONS LOCAL 300

For Steve Scott
By: *Dane Clarke* _____

ROOFERS UNION LOCAL 81

By: _____

SPRINKLER FITTERS LOCAL 483

By: _____

OPERATING ENGINEERS
LOCAL 3

By: _____

PLUMBERS UNION LOCAL 38

By: _____

SHEET METAL WORKERS UNION
LOCAL 104

By: _____

ATTACHMENT A
AGREEMENT TO BE BOUND

PROJECT LABOR AGREEMENT
FEDERATED INDIANS OF GRATON RANCHERIA
CASINO AND HOTEL PROJECT

The undersigned, as a contractor or subcontractor (hereafter "Contractor") on the Federated Indians Of Graton Rancheria Casino And Hotel Project, as defined in Section 1.2 (hereafter "Project"), of the Project Labor Agreement (hereafter "Agreement"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the promises made in the Agreement and all attachments a copy of which was received and is acknowledged, hereby:

- 1.) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 2.) The Contractor agrees to be bound by the legally established trust agreements designated in local master collective bargaining agreements. The Contractor authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.
- 3.) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of said Agreement.
- 4.) Agrees to secure from any Contractor(s) (as defined in said Agreement) which are or become a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

DATED: _____ Name of Contractor _____

(Authorized Officer & Title)

(Address)