

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement (this “Agreement”) is made effective as of July 23, 2019, by and between the County of Kern (the “County”), a political subdivision of the State of California, and the Tejon Indian Tribe (the “Tribe”), a federally recognized Indian tribe. The capitalized terms not otherwise defined herein shall have the meanings set forth below.

RECITALS

WHEREAS, the Tribe is without a reservation or other trust land on which to develop its tribal economy, housing, healthcare, and other services; and

WHEREAS, in 2016 the Tribe and the County entered into a separate Memorandum of Understanding for the provision of services to 10.3 acres of real property at 4941 David Road if that property is placed into trust (Kern County Agreement #1118-2016, referred to herein as the “David Road Agreement”); and

WHEREAS, the Tribe has requested that the Secretary of the United States Department of the Interior accept title to certain Property located within an unincorporated area of the County in trust for the Tribe, a portion of which would be used for the development of a tribal resort, hotel and gaming project to promote tribal economic development, self-sufficiency, and self-government; and

WHEREAS, the Secretary has authorized the Bureau of Indian Affairs to prepare an environmental impact statement, or EIS, to consider a range of alternative project developments and sites within the Tribe’s aboriginal territory to meet the purposes and needs for the Trust Acquisition and the conduct of gaming; and

WHEREAS, the County and Tribe are participating as cooperating agencies in the preparation of the EIS with the opportunity to review and comment on administrative drafts prior to the release of each of the draft and final EIS to the public; and

WHEREAS, the Tribe will be required to implement the mitigation measures identified in the final EIS pursuant to the Record of Decision for the Trust Acquisition; and

WHEREAS, the Tribe does not intend to make any physical changes to the environment on the sites being considered in the EIS prior to approval of the Trust Acquisition and the Tribe has not requested the County to issue and the County does not commit itself to issue any discretionary approval of any kind under this Agreement; and

WHEREAS, the primary purpose of this Agreement is to provide a funding mechanism for the Tribe to compensate the County for law enforcement, fire protection, and emergency services, to provide reasonable compensation for programs designed to

treat problem gambling, to mitigate any effect on public safety attributable to the Project, and to mitigate all other impacts of the Project on the County; and

WHEREAS, if the Secretary takes the Property in trust for the Tribe, the County will not have the legal authority to assess real property taxes against the newly acquired trust land or to collect taxes or other assessments from the Tribe or to extend its regulatory authority over the Property; and

WHEREAS, the County has determined after public hearing that it is in the best interests of the County to enter into this Agreement; and

WHEREAS, after taking into account the provisions of this Agreement, the Tribe's commitment to mitigate any potentially significant environmental impacts identified in the EIS, the potential job creation, and the other economic benefits of the Project to the Tribe and the community, the County has determined that the development, construction, and operation of the Project would not be detrimental to the County and the surrounding community; and

WHEREAS, the County and the Tribe wish to enter into this Agreement to build upon their cooperative and mutually respectful government-to-government relationship.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Definitions

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

“Agreement” means this Intergovernmental Agreement between the County and the Tribe.

“Applicable Codes” means the California Building Code and the California Public Safety Code applicable to the County, as set forth in titles 19 and 24 of the California Code of Regulations, as those regulations may be amended, including, but not limited to, codes for building, electrical, energy, mechanical, plumbing, fire and safety.

“Bureau of Indian Affairs” means the Bureau of Indian Affairs of the United States Department of the Interior.

“CEQA” means the California Environmental Quality Act (California Public Resources Code §§ 21000 *et seq.*) and the guidelines promulgated thereunder, as the same may be amended or modified from time to time.

"Construction Date" means, after the Trust Acquisition, the later of the date the Tribe closes a loan to obtain funding from a financial institution to finance construction of the Gaming Facility or commences vertical construction of the Gaming Facility.

"County" means the County of Kern, California, a political subdivision of the State, and its departments, agencies and subdivisions, including, but not limited to, the Sheriff and Sheriff's Office and the County Fire Department.

"County Administrative Office" means a department of the County responsible for executing and coordinating County administrative and financial policy.

"CPI Adjustment" means an annual increase from the dollar amount applicable to the previous year that is equal to the annual increase in the Consumer Price Index used by the Kern County Assessor's Office, as provided in the California State Board of Equalization's annual California Consumer Price Index letter to County Assessors.

"EIS" means the environmental impact statement for the Project and Trust Acquisition being prepared by the Bureau of Indian Affairs as the lead federal agency under authority delegated by the Secretary pursuant to NEPA.

"Gaming Facility" means any building on the Property in which class III gaming authorized under the Tribal-State Compact occurs.

"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.

"Joint Substation" has the meaning given in Subsection 2(a) of this Agreement.

"NEPA" means the National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*) and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"Opening Date" means the date on which the Tribe commences commercial operations open to the public on the Property.

"Party" means the County or the Tribe.

"Parties" means the County and the Tribe.

"Project" means the development, construction and operation of all uses on the Property, including the Gaming Facility.

"Property" means the approximately 306 acres of fee land located within the unincorporated area of the County identified in the notice to prepare an EIS for the proposed Trust Acquisition published on August 13, 2015 in the Federal Register (80

Fed. Reg. 48559) as described and shown on Attachment A or such other property that is identified in the Record of Decision as the preferred alternative for the Trust Acquisition.

“Public Entity” means any federal, State, regional or local governmental entity, public authority, public agency, public corporation or any subdivision thereof, including, without limitation, the County.

“Public Law 280” refers to the statute that extended state criminal jurisdiction and limited, non-regulatory civil jurisdiction to Indian country in certain states, including California, pursuant to Public Law 280, 67 Stat. 588 (1953), as amended, 18 U.S.C. §§ 1161-62, 25 U.S.C. §§ 1321-22, 28 U.S.C. § 1360 (1953).

“Record of Decision” means the final document issued for the Project and Trust Acquisition by the Bureau of Indian Affairs following issuance of the final EIS pursuant to NEPA which sets forth the preferred alternative for the proposed action and identifies and adopts mitigation measures to minimize or avoid environmental harm from the preferred alternative.

“Secretary” means the Secretary of the United States Department of the Interior or her or his representative.

“Sheriff” or “Sheriff’s Office” means, respectively, the Kern County Sheriff or the Kern County Sheriff’s Office responsible for law enforcement in the County.

“State” means the State of California.

“Tribe” means the Tejon Indian Tribe, a federally recognized Indian tribe.

“Tribal-State Compact” means (i) a Tribal-State gaming compact for the Project between the Tribe and the State that has been approved by the Secretary or allowed to become effective by operation of law pursuant to IGRA; or (ii) procedures prescribed by the Secretary governing the conduct of class III gaming activities by the Tribe issued pursuant to IGRA.

“Trust Acquisition” means the acquisition by the United States of title to the Property in trust for the Tribe for gaming and other purposes.

2. Non-recurring EIS Mitigation and Other Payments

(a) Non-recurring EIS Mitigation

The Tribe shall implement the following mitigation measures commencing after the Construction Date to provide for the timely mitigation of potentially significant impacts of the Project identified in the EIS as set forth in this Subsection 2(a).

(i) Joint Substation

The Tribe shall develop, build, and fully furnish a new fire and sheriff joint substation (“Joint Substation”) for lease by the County Fire Department and Sheriff’s Office at a total cost not to exceed ten million dollars (\$10,000,000). The Joint Substation shall be located on approximately four (4) acres of land in the southwest corner of the Property and designed in accordance with plans provided by the County and analyzed in the EIS. Construction of the Joint Substation shall commence after the Construction Date, be built in compliance with the Applicable Codes, and shall include all utilities, including water, sewer, and roof-top solar. Upon completion of the Joint Substation, the Tribe shall lease the Joint Substation to the County for a minimum term of twenty (20) years at one dollar (\$1) per annum or as otherwise agreed upon by the Parties.

(ii) Ladder Truck

The Tribe shall pay the County the actual cost, in an amount not to exceed one million eight hundred thousand dollars (\$1,800,000), to purchase a fully equipped, 110-foot ladder truck for use by the County Fire Department from the Joint Substation. Following the Construction Date, the Tribe shall make a one-time payment to the County Administrative Office to provide for delivery of the ladder truck prior to the Opening Date. The Tribe shall pay the amount requested within sixty (60) days after receipt of a request for payment from the County.

(iii) Patrol Vehicles

The Tribe shall pay the County the actual cost, in an amount not to exceed nine hundred sixty-two thousand dollars (\$962,000), to purchase up to twelve (12) new, fully equipped patrol vehicles for use by the Sheriff’s Office from the Joint Substation. Following the Construction Date, the Tribe shall make payments to the County Administrative Office on a schedule that provides for the delivery of patrol vehicles to the Joint Substation thirty (30) days prior to new Sheriff’s Office staff beginning assignment at the Joint Substation. The Tribe shall pay the amount requested within sixty (60) days after receipt of a request for payment from the County.

(b) Other Non-recurring Payments

The Tribe shall make the following non-recurring payments after the Construction Date to compensate the County for law enforcement, fire protection, emergency services and any other public services to be provided by the County to the Tribe as a consequence of the Project as set forth in this Subsection 2(b).

(i) Law Enforcement Training Academy

The Tribe shall pay the County five hundred thousand dollars (\$500,000) for training of new Sheriff’s Office recruits for the Joint Substation at the Kern County Regional Law Enforcement Training Academy. Following the Construction Date, the

Tribe shall make a one-time payment to the County Administrative Office within sixty (60) days after receipt of a request for payment from the County.

(ii) Wildlands Fire Vehicle

The Tribe shall pay the County the actual cost, in an amount not to exceed one hundred thirty thousand dollars (\$130,000), to purchase a type 6 wildlands fire vehicle for use by the County Fire Department at the Joint Substation. Following the Construction Date, the Tribe shall make a one-time payment to the County Administrative Office to provide for delivery of the wildlands fire vehicle prior to the Opening Date. The Tribe shall pay the amount requested within sixty (60) days after receipt of a request for payment from the County.

3. Recurring Payments

(a) Recurring Payments for Services

The Tribe shall make the following recurring payments after the Opening Date to compensate the County for law enforcement, fire protection, emergency services and all other public services to be provided by the County to the Tribe for all purposes of the Project and to mitigate all other impacts of the Project on the County and any potentially significant effect on the Property and surrounding community as a consequence of the Project as set forth in this Section 3.

(i) Fire Services Payments

The Tribe shall make recurring payments to the County equal to the actual cost of the County Fire Department's staffing of the Joint Substation in an amount not to exceed two million eight hundred seventy-five thousand dollars (\$2,875,000) per annum. Such payments shall pay the salaries and benefits of not more than twelve (12) new County Fire Department positions at the Joint Substation, including three captains, three engineers, and six emergency medical technician (EMT) firefighters. The Tribe shall make payments on a schedule reflecting actual staffing at the Joint Substation. By way of example only, in the event staffing at the Joint Substation was at nine positions in the first year, the payments due to the County would be limited to the salaries and benefits of those nine positions.

(ii) Law Enforcement Payments

The Tribe shall make recurring payments to the County equal to the actual cost of the Sheriff's Office staffing of the Joint Substation in an amount not to exceed two million five hundred thousand dollars (\$2,500,000) per annum. Such payments shall pay the salaries and benefits of not more than thirteen (13) new Sheriff's Office positions at the Joint Substation, including one sergeant, one senior deputy, ten deputies, and one clerk. The Tribe shall make payments on a schedule reflecting actual staffing at the Joint Substation. By way of example only, in the event staffing at the Joint Substation was at nine positions in the first year, the payments due to the County would be limited to the salaries and benefits of those nine positions.

(iii) General Fund Payments

The Tribe shall make recurring payments equal to the one percent (1%) General Government Factor multiplied by the appropriate factor for the General Fund in Tax Rate Area 118-006, as established in the tax year of the Opening Date, multiplied by the dollar value of the Gaming Facility constructed on the Property for deposit in the General Fund of the County for payment of all other general government services to the Property. By way of example only, in the event the Gaming Facility opened in 2019 and had an initial value of six hundred million dollars (\$600 million), the payment due to the County per annum would be calculated as follows:

Initial Gaming Facility Value: \$600,000,000
1% General Government Factor: $0.01 \times \$600,000,000 = \$6,000,000$
General Fund Factor for TRA 118-006 Tax Year 2019: $0.345521 \times \$6,000,000 = \$2,073,126$.

In the event one or more additional phases of construction are later added to the Gaming Facility, the value of the Gaming Facility shall be increased by the value of such additional phase as submitted to the County by the Tribe. By way of example only, if an additional phase of the Gaming Facility opened in 2020 and had a value of one hundred million dollars (\$100 million), the payment due to the County per annum for that additional phase would be calculated as follows:

Additional Phase of Construction Gaming Facility Value: \$100,000,000
1% General Government Factor: $0.01 \times \$100,000,000 = \$1,000,000$
General Fund Factor for TRA 118-006 Tax Year 2020: $0.345521 \times \$1,000,000 = \$345,521$.

For purposes of this Subsection and Subsection 3(a)(iv) below, the "dollar value of the Gaming Facility" refers to the total cost to design, engineer, construct, furnish, install, and equip the Gaming Facility and related infrastructure, but shall not include such costs associated with the construction and furnishing of the Substation, predevelopment and financing costs, and the cost of any off-site road or other public improvements.

(iv) Capital Maintenance Payments

The Tribe shall make recurring payments to the County equal to the one percent (1%) General Government Factor multiplied by the appropriate factor for the Fire Fund in Tax Rate Area 118-006, as established in the tax year of the Opening Date, multiplied by the dollar value of the Gaming Facility constructed on the Property for deposit in the General Fund of the County for payment of capital maintenance costs of the County Fire Department and the Sheriff's Office. By way of example only, in the event the initial Gaming Facility opened in 2019 and had an initial value of six hundred million dollars (\$600 million), the payment due to the County per annum would be calculated as follows:

Initial Gaming Facility Value: \$600,000,000
1% General Government Factor: $.01 \times \$600,000,000 = \$6,000,000$
Fire Fund Factor for TRA 118-006 Tax Year 2019: $0.101074 \times \$6,000,000 = \$606,444$

In the event one or more additional phases of construction are later added to the Gaming Facility, the value of the Gaming Facility shall be increased by the value of such additional phase as submitted to the County by the Tribe. By way of example only, if an additional phase of the Gaming Facility opened in 2020 and had a value of one hundred million dollars (\$100 million), the payment due to the County per annum for that additional phase would be calculated as follows:

Additional Phase of Construction Gaming Facility Value: \$100,000,000
1% General Government Factor: $0.01 \times \$100,000,000 = \$1,000,000$
Fire Fund Factor for TRA 118-006 Tax Year 2020: $0.101074 \times \$1,000,000 = \$101,074$.

(b) Recurring Occupied Room Fee Payments

Following the opening of a hotel on the Property, the Tribe shall make recurring payments to the County in an amount equivalent to six percent (6%) of the revenue paid for occupied rooms in such hotel. The Tribe shall assess a tax on the amount paid for occupied hotel rooms at the Project as least as high as the highest occupied room fee assessed within the County and the incorporated areas within the County.

(c) Recurring Problem Gambling Payments

To provide reasonable compensation for programs designed to address gambling addiction, the Tribe shall make recurring payments of no less than fifty thousand dollars (\$50,000) per annum to one or more organizations dedicated to the prevention and treatment of gambling addiction which are located or able to provide services within the County. The Parties shall determine the recipient organization(s) by mutual agreement.

(d) Recurring Payment Terms

The recurring payments to be made on an a per annum basis under Subsections 3(a) and (b) of this Agreement shall be made to the County Administrative Office after the Opening Date in four (4) successive, equal quarterly installments within thirty (30) days following the end of each full calendar quarter, unless the Parties agree otherwise. The first payment shall be due on the thirtieth (30th) day following the end of the first full quarter and shall cover the prorated period from the Opening Date to the end of the first full calendar quarter of operations. The County shall determine the amount of each recurring payment due under Subsection 3(a) at least thirty (30) days prior to the Opening Date and by June 1 of each year thereafter. The County shall provide the Tribe a statement in sufficient detail for the Tribe to verify the amounts paid in the prior year and to identify the payment amounts due in the upcoming year based on projected staffing of the Substation as adjusted by (i) any deductions under Subsection 4(d) and (ii) the CPI Adjustment.

(e) CPI Adjustment

All recurring payments described in Subsection 3(a) of this Agreement shall be increased annually by the CPI Adjustment, which shall be effective on July 1 of each year following the Opening Date, provided that, the increase in the payments described in Subsections(3)(a)(iii) and (3)(a)(iv) shall not exceed the rate set forth in the California Constitution, article XIII A, section 2(b).

4. Payment Matters

(a) Sufficiency of Payments

The County has determined that the payments referenced in Sections 2 and 3 of this Agreement are sufficient to (i) compensate the County for any public services to be provided by the County in connection with the Tribe's Project, and (ii) mitigate all other impacts of the Project on the County, and, as a result, the Trust Acquisition and the Project will not have a detrimental impact on the County and the surrounding community.

(b) Distribution of Payments

The County Administrative Office shall be responsible for County compliance with this Agreement and distributing the payments referenced in Section 2 and Subsections 3(a) and 3(b) of this Agreement to the appropriate County departments, agencies and subdivisions.

(c) Contingency of Payments

The Parties acknowledge and agree that the Project and the Tribe's implementation of the non-recurring mitigation measures and other payments set forth in Section 2 of this Agreement are, and shall be, contingent upon the occurrence of (i) the

Trust Acquisition and (ii) the Construction Date. The Parties further acknowledge and agree that the Tribe's obligation for the recurring payments set forth in Section 3 of this Agreement are, and shall be, contingent upon (i) the Tribal-State Compact being in effect and (ii) the occurrence of the Opening Date. In the event the Construction Date does not occur for any reason, no payments shall be owed and the Tribe shall have no further obligations under this Agreement. The County shall make good faith efforts to segregate and identify expenditures made with payments provided to the County by the Tribe under this Agreement and to publicly attribute such expenditures to the Tribe.

(d) Deductions

The Tribe may deduct the following amounts from the next payment that the Tribe would otherwise be required to make pursuant to Section 3 of this Agreement:

- (i) the amount of any payments, if any, which the Tribe pays the County in excess of the amounts identified in Section 2 of this Agreement;
- (ii) the amount of any payments, if any, which the Tribe pays in advance of the dates set forth in Section 2 of this Agreement, plus interest on such amount at the prime lending rate of Bank of America from the date the payment is made until the date the payment would otherwise have been due;
- (iii) the amount of any payments, if any, which the Tribe receives, or is entitled to receive, from state, federal or other sources and directs to be paid to, and is accepted by, the County;
- (iv) the amount of any overpayments made under Subsection 3(a)(i) and (ii) as a result of a reduction in staffing at the Substation for a period of ninety (90) consecutive days or longer; and
- (v) should an approved development project fund any of the same items set forth in Sections 2 or 3 of this Agreement, the Tribe shall be entitled to a dollar-for-dollar deduction or refund at the time the County receives funding from the approved development project until such time as the Tribe recovers an amount attributable to the impacts of the approved development project or the Tribe's contribution is equal to the quantifiable impacts of the Gaming Facility.

5. Funding Mechanism

This Agreement creates a funding mechanism which does not commit the County to make any physical changes in the environment. By approving and performing the transactions contemplated by this Agreement, the County does not and 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 or other federal or state actions for the Project. Further, nothing in this Agreement contemplates or commits the County to any project which may result in a potentially significant physical impact on the environment. 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.

6. Additional Tribal Covenants

(a) Local Hiring

Prior to the Construction Date, the Tribe shall submit a letter to the County detailing its efforts to encourage all contractors of the Project site to hire at least 50 percent of their workers from local communities in the County. The Tribe shall provide the contractors a list of training programs that provide skilled workers and shall require the contractors to advertise locally for available jobs, notifying the training programs of job availability, all in conjunction with normal hiring practices of the contractor. Nothing herein is intended to limit the Tribe’s right to provide a preference in employment to members of federally recognized Indian tribes pursuant to tribal law.

(b) Cannabis

The Tribe agrees to follow federal law regarding the cultivation or use of cannabis on the Property. The Tribe further agrees to adopt as tribal law a cannabis code that is consistent with County policy should that policy prohibit the cultivation, sale or use of cannabis.

(c) Public Health and Safety Requirements in Compact

The Parties anticipate the Tribal-State Compact to include provisions that subject the Gaming Facility to inspections and enforcement mechanisms for verifying compliance with Applicable Codes, applicable County and State public health standards for food and beverage handling, federal water quality and safe drinking standards applicable in California, and federal, State and County workplace and occupational health and safety standards. In the event the Tribal-State Compact does not contain provisions relating to the above-referenced topics which are substantially similar or identical to those found in other tribal-state compacts in California in effect at the time of the execution of this Agreement, the County may request that the Tribe enter into negotiations with the County, in which event the Tribe shall enter into good faith negotiations with the County, to execute and deliver an agreement or other arrangement with the County on mutually agreeable terms to address the need for such public health and safety requirements.

(d) County Services

The Parties acknowledge that, under the current design of the Project, the Tribe has not requested the County to provide, and the County does not hereby commit itself to provide, water, wastewater, electricity, natural gas or telecommunications services to the Project or the Property. At the request of the Tribe or as otherwise provided under the Tribal-State Compact, the County shall provide health and safety inspections or other services for the Project in accordance with applicable policies and procedures and the Tribe shall grant access to the Property for that purpose. The Tribe shall pay to the County the applicable fee or fees set by ordinance or resolution for the particular inspection or other service provided and the County shall provide to the Tribe the results of any such inspection. Full payment shall be made by the Tribe within thirty (30) days after the service is rendered.

(e) EMS Services

The Tribe agrees to permit the Exclusive Provider (“EP”) in Exclusive Operating Area 8 access to the Property in order for EP to provide all ground ambulance service and Basic Life Support (BLS) and Advanced Life Support (ALS) standby services, as defined in the Kern County Ambulance Ordinance, codified at Chapter 8.12 of the Kern County Ordinance Code. The EP, in providing such service, shall comply with all regulations, policies, procedures, standards, and protocols that are effective during the term of this Agreement. Notwithstanding the foregoing, during the term of this Agreement EP shall charge the rates established by the Kern County Board of Supervisors for Exclusive Operating Area 8 for services provided on the Property. The EP shall not charge the Tribe or any person at the Property any service rate, cost, fee or additional charge not approved by the Kern County Board of Supervisors for Exclusive Operating Area 8. Further, EP shall not require the Tribe or the Gaming Entity to purchase or provide funding for any equipment, facilities or staff.

7. Mutual Aid Arrangements

(a) Mutual Aid

Upon the request of the Tribe, the County or its departments will enter into good faith negotiations with the Tribe to execute and deliver a mutual aid agreement or other arrangements with the Tribe on mutually agreeable terms relating to fire protection, emergency services, first responder and law enforcement responses.

(b) Law Enforcement

(i) Upon the request of the Tribe, the County or its departments will

enter into good faith negotiations with the Tribe to execute and deliver agreements or arrangements on mutually agreeable terms relating to investigation, jurisdictional or other similar issues. The Tribe acknowledges that, pursuant to, and to the extent set forth in, federal Public Law 280 as in effect and construed as of the date of this Agreement, most State criminal laws will have the same force and effect on the Property as they have elsewhere in the State and the Sheriff will have jurisdiction over most offenses committed by or against Indians on the Property. However, nothing in this Subsection or any agreement entered into pursuant to this Subsection does or is intended to create County, State or other Public Entity jurisdiction over the Tribe or the Property.

(ii) **Control of Sheriff's Personnel:** The Sheriff shall provide not less than the level of service to the Property as he or she provides to non-tribal properties within the County. Selection, supervision, and quality control of the officers assigned to the Joint Substation shall be the sole responsibility of the Sheriff's Office. The Sheriff, in his or her sole discretion, may deploy Joint Substation personnel or equipment to preserve the peace as may be deemed necessary under the existing circumstances. The Sheriff shall exercise this discretion in good faith with the goal of keeping the peace in a non-discriminatory manner. In the event of an emergency or other temporary situation elsewhere in the County, the Sheriff reserves the right to assign any and all of his or her personnel to that emergency or other temporary situation. Sheriff's Office personnel will work closely with Tribal staff to maintain peace and order. Sheriff's Office personnel will adhere to their policies, state laws, and federal laws in providing services to the Property.

(c) Additional Mutual Aid Arrangement Matters

(i) The Parties do not intend that (i) the Tribe shall make any contributions or payments to the County or any other entity pursuant to the mutual aid or other agreements or arrangements contemplated by this Section; (ii) the Tribe shall be required to include the County as a party to, or obtain the approval of the County for, any such mutual aid or other agreements or arrangements between the Tribe and any entity other than the County.

(ii) **David Road Agreement:** In consideration of the payments made under this Agreement, County shall waive any claims for payment for Law Enforcement Services as described in Section 3 of the David Road Agreement and any claims for payment for Emergency Medical, Fire, and Hazmat Services as described in Section 4 of the David Road Agreement.

8. Term

(a) Effective Date

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

(i) This Agreement has been approved or ratified by the County Board of Supervisors; and

(ii) This Agreement has been approved or ratified by the General Council of the Tribe.

(b) Expiration Date

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

9. Termination

(a) Termination Events

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

(i) prior to the Trust Acquisition Date, the Tribe submits a written notice to the County to the effect that the Tribe has permanently decided (i) to withdraw or not submit any application requesting that the Secretary accept trust title to the Property for the benefit of the Tribe or (ii) to otherwise cease development or operation of the Gaming Facility; or

(ii) after the Trust Acquisition, the Property (i) is removed from trust or restricted status such that the Property is no longer held in trust by the United States for the benefit of the Tribe, (ii) is no longer "Indian country" within the meaning of federal law, or (iii) is otherwise not eligible for the development or operation of the Gaming Facility for any reason; or

(iii) after the Tribal-State Compact becomes effective, such Tribal-State Compact expires or terminates for any reason or is determined by the Secretary or any court of competent jurisdiction to be unlawful or otherwise ineffective for any reason; or

(iv) the Tribe permanently ceases commercial operations on the Property.

(b) Retention of Funds

In the event of a termination of this Agreement, the County will be entitled to retain any recurring, non-recurring, and non-recurring EIS mitigation payments for services paid to the County through the effective date of termination, but the County will not be entitled to receive any recurring, non-recurring, or non-recurring EIS mitigation payments for services payable after the effective date of termination. In the event of a termination of this Agreement pursuant to Subsection 9(a)(ii) or (a)(iii), the County will not be entitled to retain any recurring, non-recurring, or non-recurring EIS mitigation payments for services paid to the County through the effective date of termination.

10. Suspension Events

If, due to Force Majeure (as hereinafter defined), an act of God, valid business considerations, or the events listed in Section 12 of this Agreement, a material portion of the gaming operations previously conducted by the Tribe on the Property are suspended or terminated, the Parties' obligations under this Agreement shall be suspended as of the date of such suspension or termination until such time as such operations are resumed. For the purposes of this Section, the term "Force Majeure" shall include, without limitation, the following: earthquake; flood; fire; other natural disasters; changes in law, regulation or governmental policy that has a material adverse effect on the Project; riots; war; or terrorism. Nothing in this Section shall reduce the Tribe's liability for contributions or other payments which become due and payable prior to the date such gaming operations are suspended or terminated.

11. Renegotiation Provisions

(a) Tribe Renegotiation Events

The Tribe may request that the County renegotiate one or more of the provisions of this Agreement if there is a change in law or other circumstances which has a significant and adverse financial impact on the Project or the Gaming Facility. Such changes shall be deemed to include, without limitation, the following:

(i) any change in State or federal constitutions, laws, rules or regulations, guidelines or bulletins, 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 the State;

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

(iii) the Tribal-State 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 substantially similar or identical to those authorized under other tribal-state compacts in California in effect at the time of execution of this Agreement, or (B) does not authorize the Tribe to operate at least two thousand (2000) gaming devices.

(b) County Renegotiation Events

At the County's request, the Tribe shall renegotiate one or more of the provisions of this Agreement if the Tribe materially expands the public spaces of the Gaming Facility beyond the footprint of the preferred alternative identified in the Record of Decision.

(c) Effect of Expiration or Termination

Upon expiration or termination of this Agreement, the provisions of this Agreement shall be of no further force or effect and none of the provisions of this Agreement shall survive such expiration or termination; provided, however, that the Tribe shall continue to make contributions pursuant to the terms of this Agreement which became due and payable prior to any expiration or termination date.

(d) Renegotiation Procedures

Upon the occurrence of a renegotiation event identified in this Section, all requests by either Party to renegotiate or amend this Agreement shall be by written notice addressed to the other Party and shall identify the provisions of this Agreement to be negotiated. Upon receipt of such notice, the Parties shall be obligated to renegotiate this Agreement in good faith. The Parties shall confer promptly and determine a schedule for commencing negotiations within thirty (30) days of receipt of 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 Agreement in good faith so that the Parties will retain substantially the same rights and economic benefits in the aggregate from the Project as contemplated on the date of execution of this Agreement. Any requested increase in the level of contributions made by the Tribe pursuant to this Agreement shall be consistent with payments for other similar commercial uses in the County.

(e) Amendments

This Agreement may be modified or amended only by mutual and written agreement of the Parties.

12. Severability

(a) If any provision of this Agreement is held by the Secretary, the arbitrators or a court of competent jurisdiction to be illegal, invalid, unenforceable, or unauthorized under present or future laws, the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, unenforceable, unauthorized or non-compliant provision or by its severance from this Agreement. In the event of any such determination, the Parties shall enter into good faith negotiations to replace the invalid provision with a valid provision, the economic or practical effect of which comes as close as possible to that of the invalid provision, which negotiations shall be conducted pursuant to the provisions of Subsection 13(d) of this Agreement.

(b) In the event that the entire Agreement is declared null and void or is unauthorized, the Parties shall enter into good faith negotiations to negotiate a new intergovernmental agreement.

13. Dispute Resolution Provisions

(a) Dispute Resolution

In an effort to foster good government-to-government relationships and to ensure implementation of this Agreement, the Parties agree to the dispute resolution procedures set forth in this Section. The Parties further agree that any dispute regarding the Sheriff's Office's obligations under this Agreement shall be resolved by the Parties pursuant to this Section 13. This section shall 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.

(b) Meeting

The Parties shall make their best efforts to resolve any dispute specifically arising under this Agreement by good faith negotiations whenever possible. The Parties shall meet and confer in good faith to resolve any disputes arising under the Agreement or concerning its terms or administration as follows:

(i) A Party shall give the other Party, as soon as possible after the dispute arises, written notice setting forth, with specificity, the Party's claims.

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

(iii) In the event that a payment dispute arises between the Parties, the

Party disputing the payment shall pay the disputed amount “under protest.” If the payment dispute is resolved in favor of the Party who paid the disputed amount under protest, that Party shall be refunded the amount of the overpayment plus interest calculated as follows:

$$(\text{No. of Days Overpaid}/365) \times \text{Pooled Treasury Rate} \times \$ \text{ Amount of Overpayment} = \text{Overpayment Interest Charge}$$

(c) Arbitration

If such dispute is not resolved to the satisfaction of the Parties within thirty (30) calendar days after the first meeting, then either Party may seek to have the dispute resolved by arbitration in accordance with the following procedures; provided, however, that neither party shall be required to agree to submit to arbitration.

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

(ii) The disputes to be submitted to arbitration shall be limited to disputes specifically arising under this Agreement.

(iii) In the event that there is any dispute as to whether a matter is subject to the arbitration provisions of this Agreement, 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 Agreement 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 with Judicial Arbitration and Mediation Services (“JAMS”). The Tribe and the County shall each select one (1) arbitrator and those two (2) arbitrators shall select the third arbitrator. All arbitrators shall be generally familiar with federal Indian law and commercial business transactions and shall have no interest in the matter.

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

(vi) The arbitration shall be administered in accordance with the Streamlined Arbitration Rules and Procedures of JAMS (or if those rules no longer exist, the closest equivalent) as modified by the provisions of this Agreement.

(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 Party shall bear its own costs, attorneys' fees and one-half of the costs and expenses of the arbitrators.

(ix) Subject to the provisions of this Section, the arbitrators shall be empowered to grant compensatory and declaratory relief only.

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

(xi) Confirmation of Decisions. Any Party to an arbitration in which a decision has been made pursuant to this Section may petition the United States District Court for the Eastern District of California or the Superior Court of California for the County to affirm the decision. The Parties expressly consent to be sued in such courts for affirmation of any such decision. A decision shall be affirmed, provided that:

- (1) The decision is limited to matters specifically arising under this Agreement.
- (2) No monetary damages may be awarded except those which require the payment of sums pursuant to breaches of obligations of the Parties under this Agreement and which are not inconsistent with Section 15 (Damages) and Section 14(b) (Limitations of Tribe's Waiver) of this Agreement.
- (3) No person or entity other than the Parties 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.

If an award is affirmed, 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.

(d) Actions

The express waivers and consents provided for in this Section and Section 14 of this Agreement shall only extend to the following: civil actions specifically arising under this Agreement; civil actions to compel arbitration; civil actions to 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 Agreement, no other waivers or consents to be sued, either express or implied, are granted by either Party.

(e) Submission to Federal or Superior Court

Disagreements on matters specifically arising under this Agreement that are not otherwise resolved by arbitration or other mutually acceptable means provided in this Section may be resolved in the United States District Court for the Eastern District of California or the Kern County Superior Court. Any such action pursuant to this subsection is expressly limited to disagreements on matters specifically arising under this Agreement, limited to compensatory and declaratory relief only, and subject to Sections 14 and 15 of this Agreement. The Parties agree that no person or entity other than the Parties shall be a 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. Each Party shall bear its own costs, attorneys' fees and court costs. The parties agree that, except in case of imminent threat to the public health or safety, best efforts will be made to resolve the matter using alternative dispute resolution prior to resorting to judicial process.

(f) No Waiver of Breach

The waiver by the County or the Tribe of any term, covenant, or condition contained in this Agreement must be in writing and shall not be deemed to be a waiver of any subsequent breach of the term, covenant, or condition, and no custom or practice that may arise between the Parties during the course of this Agreement shall be construed to waive or lessen the right of the County or the Tribe to performance by the Parties in strict accordance with the terms of this Agreement.

(g) 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 Agreement or otherwise shall be and remain confidential to the extent not prohibited by applicable law.

14. Limited Waiver of Sovereign Immunity

(a) Waiver

Subject to the provisions of this Section, 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 disputes specifically arising under this Agreement and not as to any other actions, matters or disputes.

(b) Limitations of Tribe's Waiver

The Tribe's waiver of sovereign immunity in favor of the County is specifically limited to permitting, and does permit, the decisions referenced in Subsection 13(c)(ix) and actions referenced in Subsection 13(e). 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 (as defined by IGRA) from the Gaming Facility. The Tribe does not waive its sovereign immunity with respect to (i) actions by third parties, or (ii) disputes between the Tribe and the County which do not specifically arise under this Agreement.

(c) Tribal General Council Resolution

The Tribe represents to the County that its Tribal General Council has adopted a resolution in accordance with the Tribe's Constitution which provides that (i) the Chairperson of the Tribal Executive Committee has the authority to act on behalf of the Tribe in connection with the execution and delivery of this Agreement, (ii) the Tribal General Council delegates authority to the Chairperson to execute and deliver this Agreement on behalf of the Tribe and (iii) the Tribe waives sovereign immunity on a limited basis as set forth in this Agreement. A certified copy of the resolution is attached to this Agreement as Exhibit A.

15. Damages

The Parties hereby agree that, in the event of default, any damages awarded or arising under this Agreement shall be exclusively limited to actual direct damages incurred and which have been demonstrated with substantial certainty. In no instance shall the Parties to this Agreement be entitled to special, incidental, indirect, consequential or punitive damages, lost profits or attorney's fees. By acceptance and execution of this Agreement, the Parties hereby agree that the only monetary damages contemplated by the Parties as arising from this Agreement are actual or direct damages which do not, in any event, exceed the contribution amounts expressly stated in this Agreement and that the Parties are precluded from asserting any claims for additional or other monetary damages.

16. No Submission to Jurisdiction

The Parties acknowledge and agree that nothing in this Agreement shall be construed as constituting a submission by the Tribe to the jurisdiction of the County. Nothing in this Agreement shall be construed to state or imply that the Tribe would be required to make the contributions or covenants set forth in this Agreement other than pursuant to the terms and conditions of this Agreement.

17. County Obligation

Subject to the limitations in Section 5, the County agrees to support the Trust Acquisition and the Project and to provide such letters of support or other communication which the Tribe may reasonably request from time to time.

18. Third Party Matters

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

19. Binding Agreement

This Agreement is intended to be, and shall be construed to be, binding upon the Parties and all successors and successors-in-interest of each Party. The County intends that its approval, execution, delivery and performance of this Agreement shall (i) be construed to be administrative actions, as distinguished from legislative actions, and (ii) not be construed to be an express or implied enactment, adoption or amendment of any zoning ordinance, general plan, special plan or elements thereof.

20. Notice

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

For the Tribe: Tejon Indian Tribe
 1731 Hasti Acres Drive, Suite 108
 Bakersfield, California 93309
 Attention: Octavio Escobedo, Chairman

With a copy to:

Arlinda Locklear
Tejon General Counsel
4113 Jennifer Street, NW
Washington, DC 20015

and

Maier Pfeffer Kim Geary & Cohen, LLP

1970 Broadway, Suite 825
Oakland, California 94612
Attention: John Maier

For the County: County Administrative Officer
Administrative Center
1115 Truxtun Avenue, Fifth Floor
Bakersfield, California 93301

With a copy to:

Office of the County Counsel
1115 Truxtun Avenue, Fourth Floor
Bakersfield, California 93301

21. Governing Law

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

22. Construction of Agreement

This Agreement, including all recitals, together with all Exhibits, constitutes the entire agreement between 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 the Parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement 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 based on the preparation or negotiation of this Agreement. The headings contained in this Agreement are for convenience of reference only and shall not affect the construction or interpretation hereof.

23. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original.

24. Approval by the Department of the Interior

The Parties will submit this Agreement to the Department of the Interior for either (i) approval pursuant to 25 U.S.C. Section 81 or (ii) a written response that this Agreement does not require approval under 25 U.S.C. Section 81.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

COUNTY OF KERN, CALIFORNIA

Date: _____, 2019

By: _____
David Couch
Chair, Board of Supervisors

RECOMMENDED AND APPROVED AS TO
CONTENT

Date: _____, 2019

By: _____
Ryan Alsop
County Administrative Officer

APPROVED AS TO FORM

Date: _____, 2019

By: _____
Margo Raison
County Counsel

TEJON INDIAN TRIBE

Date: _____, 2019

By: _____
Octavio Escobedo
Chairman

APPROVED AS TO FORM

Date: _____, 2019

By: _____
John Maier
Legal Counsel for the Tribe

Attachment A (Intergovernmental Agreement)

LEGAL DESCRIPTION

Real property in the unincorporated area of the County of Kern, State of California, described as follows:

PARCEL 1: (APN: 238-204-02)

THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 11 NORTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL 2: (APN: 238-204-04)

THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 11 NORTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

PARCEL 3: (APN: 238-204-07)

THE WEST HALF OF THE SOUTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 11 NORTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES WITHIN OR UNDERLYING SAID LAND, OR THAT MAY BE PRODUCED AND SAVED THEREFROM, PROVIDING HOWEVER, GRANTOR, HIS SUCCESSORS AND ASSIGNS SHALL NOT CONDUCT DRILLING OR OTHER OPERATIONS UPON THE SURFACE OF SAID LAND, BUT NOTHING HEREIN CONTAINED SHALL BE DEEMED TO PREVENT THE GRANTOR, HIS SUCCESSORS AND ASSIGNS, FROM EXTRACTING OR CAPTURING SAID MINERALS BY DRILLING ON ADJACENT OR NEIGHBORING LANDS AND/OR FROM CONDUCTING SUBSURFACE DRILLING OPERATIONS UNDER SAID LAND AT A DEPTH OF 100 FEET BELOW THE SURFACE OF SAID LAND, SO AS NOT TO DISTURB THE SURFACE OF SAID LAND OR ANY IMPROVEMENTS THEREON, AS RESERVED BY CHANSLOR-WESTERN OIL AND DEVELOPMENT COMPANY, A DELAWARE CORPORATION, SUCCESSOR IN INTEREST TO CHANSLOR-CANFIELD MIDWAY OIL COMPANY, A CALIFORNIA CORPORATION, IN DEED RECORDED NOVEMBER 8, 1954, IN BOOK 2317, PAGE 102, OF OFFICIAL RECORDS.

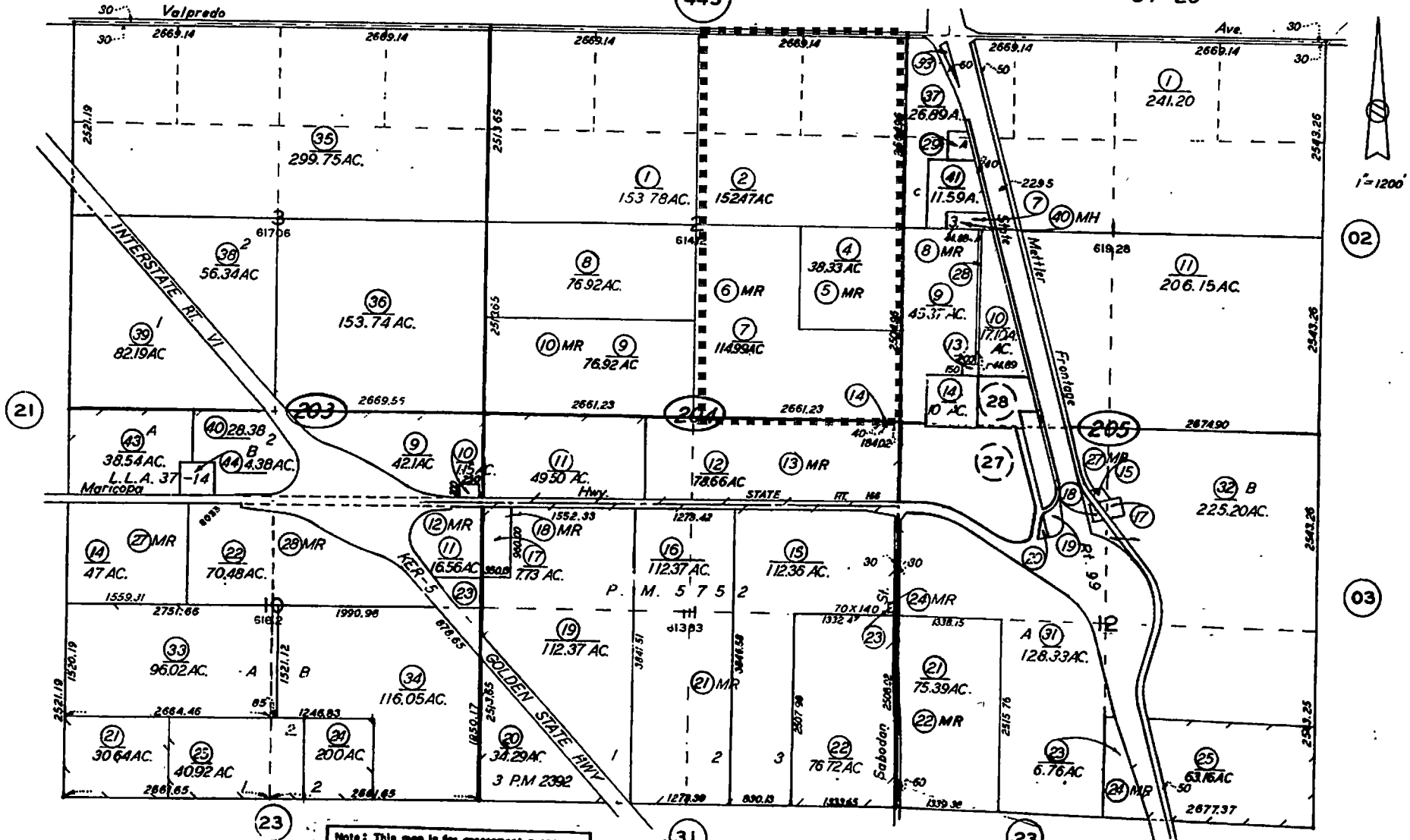
PARCEL 4: (APN: 238-204-14)

ALL THAT PORTION OF SECTION 11, TOWNSHIP 11 NORTH, RANGE 20 WEST, SAN BERNARDINO MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF KERN, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 11, THENCE SOUTH 78° 07' 14" WEST 184.02 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89° 48' 55" WEST 40.00 FEET; THENCE NORTH 0° 11' 05" WEST 40.00 FEET; THENCE NORTH 89° 48' 55" EAST 40.00 FEET; THENCE SOUTH 0° 11' 05" EAST 40.00 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES WITHIN OR UNDERLYING SAID LAND AS RESERVED BY KERN COUNTY LAND COMPANY, IN DEED DATED OCTOBER 3, 1945, RECORDED IN BOOK 1283, PAGE 212, OF OFFICIAL RECORDS.

BK 445



Note: This map is for assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.

Revised: 03/20/2016

R/S 5-137 **ASSESSORS MAP NO. 238-20**
COUNTY OF KERN

FOR DEMONSTRATIVE PURPOSES ONLY. THIS MAP SHALL NOT BE USED FOR ANY OTHER PURPOSE.

EXHIBIT A

Tribal General Council Resolution