



SHINGLE SPRINGS BAND OF MIWOK INDIANS

Shingle Springs Rancheria, (Verona) Tract, California
5281 Honpie Road, Placerville CA 95667
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RESOLUTION 2012-74

SUBJECT: AUTHORIZATION FOR ENTRY INTO AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF EL DORADO.

WHEREAS, the Shingle Springs Band of Miwok Indians (“Tribe”) is a federally recognized Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government; and

WHEREAS, the Shingle Springs Band of Miwok Indians Tribal Council (“Tribal Council”) is the duly-elected governing body of the Shingle Springs Band of Miwok Indians and is authorized to act on behalf of the Tribe; and

WHEREAS, the Tribe and El Dorado County (“County”) are parties to that certain Memorandum of Understanding and Intergovernmental Agreement between the County of El Dorado and Shingle Springs Band of Miwok Indians dated September 28, 2006 (“MOU”); and

WHEREAS, the Tribe and County desire to amend the MOU to reallocate certain amounts currently paid by the Tribe to the County to certain other mutually agreed upon uses; and

WHEREAS, the Tribal Council has reviewed the attached Amendment to Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and Shingle Springs Band of Miwok Indians and supports entry into it in order to reallocate the money in a mutually beneficial way; and

WHEREAS, the Tribal Council authorizes the limited waiver of sovereign immunity in connection with any dispute with the County that may arise under the attached Amendment, but only to the extent set forth in the Amendment.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council authorizes the Chairman to enter into the attached Amendment to Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and the Tribe, and authorizes the Chairman or his designee to execute any and all documents and agreements necessary as may be required to give effect to the transactions, herein contemplated, and to take such other actions as may hereby be necessary and appropriate to carry out the obligations thereunder.

BE IT FURTHER RESOLVED that the Tribal Council hereby agrees to a limited waiver of its sovereign immunity in connection with any dispute with the County that may arise under the attached Amendment, but only to the extent set forth in the Amendment.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

CERTIFICATION

As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a telephone meeting duly called, noticed, and convened on the 20th day of October, 2012 at which time a quorum of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said resolution has not been rescinded or amended in any form.


Tribal Chairperson

10/20/12
Date

ATTEST:


Tribal Secretary

10-20-12
Date

AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF EL DORADO AND SHINGLE SPRINGS BAND OF MIWOK INDIANS

THIS AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF EL DORADO AND SHINGLE SPRINGS BAND OF MIWOK INDIANS (“**Amendment**”) is dated October 20 2012 for purposes of reference only, and is made between the County of El Dorado (“**County**”) and the Shingle Springs Band of Miwok Indians, a federally recognized Indian tribe (“**Tribe**”).

RECITALS:

A. The County and the Tribe are parties to that certain Memorandum of Understanding and Intergovernmental Agreement between the County of El Dorado and Shingle Springs Band of Miwok Indians dated September 28, 2006 (“**Memorandum of Understanding**”).

B. The County and the Tribe desire to amend the Memorandum of Understanding to reallocate certain amounts currently paid by the Tribe to the County to certain other mutually agreed upon uses.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the County and the Tribe agree as follows:

AGREEMENT:

1. Qualifying Public Improvement Projects. In lieu of making the HOV Payment required under Section A of the Memorandum of Understanding, the Tribe will hereafter make one (1) payment annually of Five Million Two Hundred Thousand Dollars (\$5,200,000) to the County for the duration of the Agreement to be used by the County for public improvements located within the designated boundaries as depicted on the attached map of El Dorado County, including, but without limitation, to road improvements and/or maintenance (“**Qualifying Public Improvements**”). Attached at Exhibit A is a map of El Dorado County defining the location of the Qualifying Public Improvements. The first payment of Five Million Two Hundred Thousand Dollars (\$5,200,000) is due on December 1, 2012, with remaining payments due on the same date for each of the following years through the duration of the Agreement. Such payment shall be increased by two percent (2%) every year, beginning on December 1, 2017.

2. Qualifying Healthcare Contributions. In consideration of the increased expenses to the Tribe’s Health Program for caring for non-Indian citizens of the County, the County shall pay the Tribe an annual contribution of Two Million Six Hundred Thousand Dollars (\$2,600,000) to be applied to the Tribe’s health programs that service both tribal and non-members and may be used for, among other things, behavioral health

services, outreach services, dental care services, insurance costs and reimbursement of medical expenses (“**Qualifying Healthcare Contributions**”). Such contribution shall be increased by two percent (2%) every year, beginning on December 14, 2017. The County shall make its first Qualifying Healthcare Contribution to the Tribe on or before December 14, 2012, with remaining payments due on the same date each of the following years through the duration of the Agreement. In no event will the County be obligated to make such payment before the Tribe makes its Qualifying Public Improvements payment. Commencing July 1, 2013, and each July 1 thereafter, the Tribe shall submit to the County an annual written summary detailing the expenditures made with the funds from the Qualifying Healthcare Contribution.

3. Miscellaneous. Except as amended by this Amendment, all of the other terms and conditions set forth in the Memorandum of Understanding shall remain in full force and effect. This Amendment may be executed in one or more counterparts.

4. Limited Waiver of Sovereign Immunity. The Tribe hereby agrees to waive its sovereign immunity (and any requirement of exhaustion of tribal remedies) in connection with any dispute vis-à-vis the County that may arise under this Amendment, and consents to the jurisdiction of certain courts solely for purposes of enforcing the terms of this Amendment. To that end, the Tribe consents only to the jurisdiction of the U.S. District Court in the Eastern District of California (and all relevant courts of appeal), or alternatively, to the jurisdiction of the Superior Court of California (and all relevant courts of appeal), for judicial resolution of disputes with the County over this Amendment. The County and the Tribe agree that jurisdiction and venue for any such dispute shall be in any superior court other than El Dorado County Superior Court unless it is determined by another superior court, *sua sponte* and without motion or suggestion by the County, that the action must be heard in El Dorado County Superior Court. The County agrees to jurisdiction and venue in Sacramento County Superior Court and will not assert that jurisdiction and venue lie in El Dorado County Superior Court unless there is no other superior court that will accept jurisdiction and venue for the matter. The waiver is also limited to amounts due under the terms of this Amendment, and in no instance shall the waiver be read to extend to allow judicial enforcement of any kind against any assets of the Tribe, other than the Revenue Stream of its Gaming Project. (Revenue Stream is defined as net profits due and owing to the Tribe that are derived from the operation of the Gaming Project after all costs of operation, repayment of debt service, payments to the State under any Compact, and payments to the Tribe for any necessary governmental functions associated with the operation of the Gaming Project have been made.) The Tribe also does not agree to waive any aspect of its sovereign immunity with respect to actions by parties other than the County.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written:

COUNTY OF EL DORADO

John R. Knight
Chair, Board of Supervisors

Date

SHINGLE SPRINGS BAND OF
MIWOK INDIANS



Nicholas Fonseca




Date

APPROVED AS TO FORM:

Brady & Vinding

Michael V. Brady
Counsel for El Dorado County

Date



AmyAnn Taylor
Counsel for Shingle Springs
Band of Miwok Indians



Date

Exhibit A

Area of Use Map

