MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made effective as of July 22, 2008, by and between the County of Sonoma, California (the "County"), and the Federated Indians of Graton Rancheria (the "Tribe").

RECITALS

WHEREAS, the Tribe is a federally-recognized Indian tribe with nearly 1,100 members who are comprised of descendants of the Coast Miwok and Southern Pomo Indians of Marin and Sonoma Counties; and

WHEREAS, in 2000, Congress restored the Unites States' government-to-government relationship with the Tribe pursuant to the Graton Rancheria Restoration Act (the "Restoration Act"); and

WHEREAS, the Restoration Act includes a provision which provides that, upon application by the Tribe, the Secretary of the Interior *shall* accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County and that such lands, once taken into trust, shall be the Tribe's reservation; and

WHEREAS, on May 7, 2008, a notice was published in the Federal Register that the Assistant Secretary – Indian Affairs had made a final agency determination to acquire approximately 254 acres of land located within and near the City of Rohnert Park in Sonoma County into trust for the Tribe pursuant to the Restoration Act; and

WHEREAS, upon acceptance of the 254 acres of land into trust, the land will become the Tribe's reservation, a portion of which the Tribe intends to develop as a casino and hotel resort ("Casino Project"); and

WHEREAS, since February 2004, the National Indian Gaming Commission has been preparing an environmental impact statement ("EIS") for the Casino Project under the National Environmental Policy Act in connection with the approval of the Tribe's management contract; and

WHEREAS, the County is concerned that the Restoration Act could be interpreted to provide the Tribe with the right to acquire additional lands in trust as a mandatory acquisition without environmental review or consultation with the affected communities; and

WHEREAS, the Tribe does not intend to request that the Secretary take any additional lands into trust for the Tribe pursuant to the Mandatory Provision of the Restoration Act; and

WHEREAS, the Board of Supervisors continues to oppose the expansion of gaming in the County; and

WHEREAS, the Tribe does not intend to pursue the operation of more than one gaming facility under any law; and

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

WHEREAS, the County and the Tribe each are committed to a thorough environmental review of new development projects to insure that any significant adverse environmental impacts are fully mitigated; and

WHEREAS, for valuable mutual consideration, the County and the Tribe desire to remove any ambiguity concerning whether additional land may be taken into trust pursuant to the Mandatory Provision of the Restoration Act and therefore enter into this Agreement so that any future lands which the Tribe may acquire in the County shall be encumbered pursuant to the terms described herein.

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 Memorandum of Agreement, as the same may be amended by written agreement of the Parties from time to time.

"Casino Project" means the development, construction and operation of a Class II and/or Class III gaming facility (as defined under the IGRA) and related amenities on the Property as described in the Draft EIS.

"CEQA" means the California Environmental Quality Act, California Public Resources Code § 21000 *et seq.*, and any amendments thereto, and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"County" means the County of Sonoma, California, a political subdivision of the State, and its respective departments and subdivisions.

"EIS" means the Graton Rancheria Casino and Hotel Environmental Impact Statement initiated by the NIGC under NEPA to assess the environmental consequences of the approval of a management contract between the Tribe and SC Sonoma Management, LLC and the development of the Casino Project on the Property or an alternate site in Sonoma County. The NIGC issued a Draft EIS in February 2007 and intends to issue a Final EIS in 2008.

"Gaming" or "Gaming Activities" means Class II or Class III gaming as defined under the IGRA.

"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 the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"Mandatory Provision" means Section 1405(a) of the Restoration Act (25 U.S.C. § 1300n-3(a)), which provides that "[u]pon application by the Tribe, the Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County, California, for the benefit of the Tribe after the property is conveyed or otherwise transferred to the Secretary and if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes."

"NEPA" means the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. § 4321 through 42 U.S.C. § 4347), and any amendments thereto, and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

"NIGC" means the National Indian Gaming Commission.

"Party" means the Tribe or County.

"Parties" mean the Tribe and the County.

"Property" means certain contiguous parcels totaling approximately 254 acres of land, including approximately 4.7 acres within the boundaries of the City of Rohnert Park and approximately 249 acres within the unincorporated area of the County, of which approximately 66 acres is within the City of Rohnert Park Sphere of Influence, as identified in the legal description included in Volume 73, Number 89 of the Federal Register Notice published on May 7, 2008 at pages 25766-68, set forth on **Exhibit A** hereto, or any portion of such land.

"Public Entity" means the federal government, the State, any county, city or district public authority or public agency and any other political subdivision or public corporation of the foregoing.

"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 as "Graton Rancheria, California" in the most recent list of Indian entities recognized and eligible to receive services from the Bureau of Indian Affairs published by the Secretary in the Federal Register.

"Trust Acquisition" means the acquisition by the United States of title to the Property in trust for the benefit of the Tribe pursuant to the Section 1405(a) of the Restoration Act.

"Trust Lands" mean lands other than the Property located within the geographic borders of the County and held by the federal government in trust for the benefit of the Tribe.

2. Limitation on Future Trust Land Applications by Tribe

Other than the Property taken into trust for the Tribe under the Mandatory Provision, the Tribe shall not submit an application requesting that the Secretary have any other lands within the County taken into trust under said provision. If, for any reason, the Trust Acquisition of the Property does not occur, then the Tribe may submit additional applications requesting the Secretary to acquire an alternative location into trust for the Tribe pursuant to Section 1405(a) of the Restoration Act until such time as the Trust Acquisition of an alternative location has occurred. The covenant not to sue hereinafter agreed to by the County in Section 3 shall not apply to an application for an alternative location pursuant to Section 1405(a) or to any other action.

3. Limitation on Future Gaming-Related Trust Acquisitions

The Tribe does not intend and hereby agrees not to operate more than one Indian casino at a time in Marin and Sonoma County. If future economic or environmental conditions require the closure or relocation of the Casino Project, the Tribe may seek to acquire other property and begin development of an alternative site, but the Tribe shall not operate more than one Indian casino. Thus, once the Trust Acquisition has occurred, the Tribe shall not submit an application requesting that the Secretary have any other land within the County taken into trust for the Tribe for gaming purposes or otherwise attempt to engage in Gaming Activities on any Trust Lands within the County unless (i) the Parties agree otherwise; or (ii) the Tribe permanently ceases all Gaming Activities at the Property prior to commencing operations at the new casino. Nothing in this Agreement shall prohibit the Tribe from applying to the Secretary to take other lands within the County into trust for non-gaming purposes on a discretionary basis.

4. Covenant Not to Sue

The County shall not bring suit against the United States or any of its agencies, the Tribe, or any interested party to contest or object to the Trust Acquisition. Further, the County shall not contest or object to the Trust Acquisition in any Department of Interior administrative proceedings. Nothing herein shall prohibit the County from challenging the action of the NIGC or other agency or department for failure to comply with NEPA in any action or determination related to the Casino Project or prevent the County from initiating any other legal action not directly related to the Trust Acquisition.

5. Recordation

The Tribe shall record this Agreement with the Office of the County Recorder, such that it appears in the Name Index for "Federated Indians of Graton Rancheria" and "Graton Rancheria," and in a manner sufficient to cloud the title of any and all future real property acquired by the Tribe in the County.

The Tribe shall give the County notice of any land acquisitions made either by the Tribe or its agents at the earliest date it can do so without prejudicing the transaction and in no case later than ten business days following the close of any escrow for such property.

6. Term

(a) Effective Date

This Agreement shall become effective when the following events have occurred:

(i) this Agreement is approved by the County Board of Supervisors and executed by an authorized representative; and

(ii) this Agreement is approved by the Tribal Council and the General Council of the Tribe and executed by an authorized representative; and

(iii) approval of the Agreement is evidenced by a Resolution from each of the Parties in forms substantially similar to **Exhibits B and C**.

(b) Term

This Agreement shall remain in effect until modified or terminated by the mutual written consent of the Parties, or until a termination event, as set forth herein, occurs.

(c) Effect of Termination

Upon termination of this Agreement, the provisions of this Agreement shall be of no further force and effect and none of the provisions of this Agreement shall survive the termination.

7. Termination Events

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

(i) after the Trust Acquisition, the Property is thereafter no longer "Indian country" within the meaning of federal law or is otherwise 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; or

(ii) the Property is determined by the Secretary, the NIGC or any court of competent jurisdiction to not be eligible for gaming under Section 20(b)(1)(B)(iii) of IGRA for any reason; or

(iii) the Restoration Act is amended or repealed prior to the Trust Acquisition.

8. Severability

To the extent allowed by law, the terms, covenants, conditions, provisions and agreements in this Agreement shall be construed and given effect in a manner that avoids any violation of statute, regulation or law. The Parties agree that in the event any term, covenant, condition, provision or agreement in this Agreement is held to be invalid or void by court of competent jurisdiction, the invalidity of any such term, covenant condition, provision or agreement shall in no way affect any other term covenant, condition provision or agreement in this Agreement.

9. Dispute Resolution Provisions

(a) Dispute Resolution

In an effort to foster good government-to-government relationships and to resolve any disputes in a productive manner, the Parties agree to the dispute resolution procedures set forth in this Section and as provided in **Exhibit E** with respect to environmental review and mitigation issues.

(b) Meet and Confer

The Parties shall make their best efforts to resolve claims of breach of this Agreement 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 implementation of the terms of this Agreement 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 Agreement.

(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 of notice, unless the Parties agree in writing to an extension of time.

(c) Legal Action

The Parties agree that if good faith negotiations fail to resolve the claims of breach within 30 days of the notice provided for in Section 9(b), an action may be brought to enforce the terms of this Agreement in the Superior Court of the County of dispute. The Parties stipulate that neither party shall seek removal or a change of venue, and that such Court, as well as any related appellate courts, shall have jurisdiction over these proceedings. In the event that the superior court lacks or declines to take jurisdiction, the Parties agree to submit the matter to the appropriate federal court. Except as may be specifically provided in this Agreement, the Parties agree not to assert and hereby waive any defense alleging governmental immunities, indispensable parties, exhaustion of tribal or administrative remedies, improper jurisdiction, improper forum, or forum non-conveniens.

(d) Remedies

(i) Injunctive Relief

The Parties hereby agree that in the event the Tribe breaches or is alleged to intend to breach this Agreement, the County may seek a temporary restraining order, preliminary or permanent injunction, or similar relief. If the County seeks injunctive relief in response to the Tribe's filing or intent to file an application to take lands into trust under Section 1405(a) of the Restoration Act, the Tribe shall not oppose the County action. The Parties specifically agree that Section 9(c) applies to any County request for injunctive relief.

(ii) Liquidated Damages

The Parties hereby agree that in the event the Tribe breaches Section 2 of this Agreement, the County would be damaged in ways that are difficult to calculate. Among other things, a breach of this Agreement would likely result in the federal government approving future trust applications and taking ownership of land within the County without a full discretionary review. It would also likely result in land development and construction without sufficient environmental review under NEPA or any other law, and without the full mitigation of impacts to the County and its residents as contemplated under this Agreement. The Parties agree that these impacts and resulting damages to the County would be significant.

The Parties further agree that it is difficult and impractical to estimate the extent and amount of actual damages the County would incur from a future breach of Section 2. Accordingly, the Parties agree that the Tribe shall pay to the affected County, as liquidated damages, 250 times the higher of the purchase price paid by the Tribe or its partners or the appraised market value of the relevant property at the time the Tribe acquires the property, if it makes application for additional lands to be placed into trust for its benefit pursuant to the Mandatory Provision, and 750 times the higher of the purchase price paid by the Tribe or its partners or the appraised market value of the relevant property at the time the Tribe acquires it, if such additional lands are placed into trust pursuant to the Mandatory Provision.

If the Parties cannot agree on the appraised market value of the property, the Parties shall select a mutually-acceptable MIA appraiser with at least five years experience in appraising real properties in the County to determine it. Disputes regarding the selection of a mutually-acceptable appraiser shall be resolved by neutral binding arbitration conducted consistent with **Exhibit E**.

The Parties agree that this provision is not intended to establish a penalty upon breach or a mechanism to compel performance. The Parties agree that this provision represents the Parties' best and most reasonable estimate of the range of harm that reasonably can be anticipated and would actually be incurred by the County upon breach of this Agreement. The Parties further agree that they were represented by counsel and had relatively equal bargaining power at the time of entry of this Agreement.

(iii) Breach by the County

In the event the County breaches this Agreement, as determined by the final decision of a court with jurisdiction to hear an action to enforce the Agreement, this Agreement shall be null and void.

(iv) Limitation on Other Damages

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. The Parties agree not to assert any claim for damages or other relief which is not consistent with the provisions of this Agreement.

(e) Intervention

In the event of intervention by any additional party into any action referred to in Subsection 9(c) without the consent of the Parties, nothing herein shall be construed to constitute a waiver of sovereign or other immunities of the Tribe or the County with respect to any such third party.

(f) Actions

The express waivers and consents provided for in this Section 9(c) shall only extend to the following: civil actions consistent with this Agreement to seek applicable relief, including injunctive relief, declaratory relief, or liquidated damages. 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.

(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

Unless otherwise agreed by the Parties, 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 among the Parties to the extent not prohibited by applicable law.

10. Interpretation of the Graton Rancheria Restoration Act

The Tribe shall adopt a resolution, in substantially the form contained in **Exhibit D**, stating that it interprets the Restoration Act as allowing the Secretary to exercise discretionary

authority over all future trust applications other than the Trust Acquisition, and that the Tribe does not intend and will not file any future application requesting that the Secretary take into trust any lands within the County other than the Property under the mandatory acquisition provision. The Tribe shall forward a copy of the resolution and this Agreement to the Secretary, and agree to use its best efforts to obtain a letter or determination from the Secretary and/or the Office of the Solicitor stating that the Secretary would defer to the Tribe's interpretation of the Restoration Act.

11. Amendment of the Restoration Act

Once the Trust Acquisition has occurred, the Parties shall act in good faith and use their best efforts to seek and support an amendment to the Restoration Act eliminating mandatory authority over any future applications to take land into trust for the Tribe under the Restoration Act, such that no lands within the County other than the Property may be taken into trust for the Tribe under the Mandatory Provision. The Parties shall both agree in writing before proposing or supporting any other amendment to the Restoration Act. If other substantive amendments are offered by third parties that go beyond the specific purpose of the amendment(s) proposed by the Parties, then either Party may oppose the bill and any future attempts to amend the Restoration Act.

12. Declaratory Relief Action

Once the Trust Acquisition has occurred, and upon the request of the County, the Parties, or any of them, shall act in good faith and use their best efforts to file a declaratory relief action against the United States to establish the interpretation of the Restoration Act that limits the application of the Mandatory Provision by eliminating mandatory authority over any future applications to take land into trust for the Tribe under the Restoration Act. The wording of the complaint and the relief sought must be reviewed by both Parties. It is further understood that while the Tribe may act as a co-plaintiff in any such suit, it shall not be obligated to be the lead plaintiff in any such action. In the event of intervention in the lawsuit by any additional party hostile to either Party, nothing herein shall be construed to constitute a waiver of sovereign or other immunities of the Tribe or the County with respect to any such third party, and either Party may seek to dismiss the lawsuit.

13. Environmental Review and Mitigation Process

The Tribe agrees to follow the environmental review and mitigation process set forth in **Exhibit E** of this Agreement for future Tribal development projects other than the Casino Project, which is already subject to NEPA review and a process to determine appropriate mitigation.

14. General Plan and Zoning Consistency

The Tribe agrees that any future new Tribal development projects on Trust Lands that are subject to the environmental review and mitigation process set forth in **Exhibit E** shall be constructed, developed, and used in a manner compliant with the applicable County zoning code

and consistent with all applicable County general plan provisions addressing land use, open space, and resource conservation issues, including those in any general plan Land Use or Open Space and Resources Conservation Elements, in effect at the time of development, or, if seven years have passed since the Tribe first acquired the land, then with the applicable County zoning code and general plan policies in effect at the time the Tribe acquired the land or any point thereafter. Inconsistencies with surrounding land uses, if any, will be addressed as part of the environmental review and mitigation process set forth in **Exhibit E**. The Parties acknowledge that this provision is not intended to provide the Tribe rights inferior to the rights of private landowners or developers under California law now or in the future.

15. City and Special District Services

The Parties recognize the potential environmental and economic benefits associated with utilizing general as opposed to project-specific infrastructure improvements for sewer, water, electricity, and other utilities. Accordingly, the Tribe agrees to meet and confer with the appropriate jurisdiction for the purpose of negotiating an agreement for such services at commercially feasible rates available to any non-Indian developer, provided that the Tribe does not want to utilize an environmentally superior alternative.

16. Waiver of Sovereign Immunity

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 dispute which specifically arises under this Agreement and not as to any other action, matters or disputes. The Tribe's waiver of sovereign immunity is specifically limited to permitting, and does permit, the awards and orders by the Court as contemplated in Subsection 9(d). The Tribe does not waive its sovereign immunity with respect to (i) actions by third parties, (ii) disputes between the Tribe and the County that do not arise under this Agreement, or (iii) any other award that is inconsistent with Subsection 9(d). The Tribe's waiver of sovereign immunity pursuant to this Section waiver shall be ratified in a resolution of the Tribe's General Council in substantially the form attached as **Exhibit B.**

17. Representations and Warranties

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

(a) Authority

Such Party has the legal power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

(b) Due Authorization

The approval, execution, and delivery of this Agreement, and the performance by such Party of its obligations under this Agreement, have been authorized by all requisite actions of such Party.

(c) Due Execution and Delivery

The persons executing this Agreement on behalf of such Party are duly authorized to execute and deliver this Agreement in the name of and on behalf of such Party.

(d) Enforceability

This Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, and, once executed and delivered, cannot be invalidated pursuant to any subsequent action of the respective Board of Supervisors of the County or the Tribal Council or General Council of the Tribe, as applicable.

(e) No Conflict

The approval, execution, delivery and performance of this Agreement does not conflict with any other agreement to which such Party is a party and does not violate or require any action which has not been taken under any law, statute, rule, regulation, ordinance, general plan, specific plan or court order or decree applicable to such Party.

18. CEQA Review

The Parties' approving, executing and performing this Agreement, currently and in the future, are not activities that, within the meaning of CEQA: (a) are directly undertaken by the County or surrounding communities, (b) are supported, in whole or in part, through contracts, grants, subsidies loans or other forms of assistance by the County, or (c) involve the issuance of a lease, permit, license, certificate or other entitlement for use by the County. By approving, executing and performing this Agreement, the County has not, and is not, making any commitment to (a) issue a lease, permit, license, certificate or other entitlement for use; or (b) develop, construct or improve any facilities or cause any other physical changes in the environment.

19. Submission to Jurisdiction

The Parties acknowledge and agree that this Agreement is not intended to constitute, and shall not be construed as constituting, a submission by the Tribe to the jurisdiction of (i) the County or any or any of its subdivisions, departments, (ii) any of its respective officials, employees, inspectors or contractors, or (iii) any of its respective laws, rules, regulations, ordinances, general plans or specific plans. It is the intent of this Agreement that the Parties do consent to the jurisdiction of the court, as provided for herein, in an action seeking relief for breach of this Agreement.

20. Third Party Matters

This Agreement 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.

21. Notice

All notices required by this Agreement 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 of Sonoma:
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
6400 Redwood Drive, Suite 300
Rohnert Park, CA 94928
ATTN: Chairperson
Telephone: (707) 566-2288
Fax: (707) 566-2291

With copies to:

Maier Pfeffer & Kim, LLP
510 - 16th Street, Suite 302
Oakland, CA 94612
ATTN: John Maier, Esq.
Telephone: (510) 835-3020
Fax: (510) 835-3040

22. Governing Law

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

23. Construction of Agreement

This Agreement, together with all Exhibits hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior negotiations, representations, drafts or other agreements, whether written or oral, relating to the subject matter hereof. In the event of a dispute between the Parties as to the language of this Agreement or any amendment to this Agreement or the construction or meaning of any term contained in this Agreement or any amendment to this Agreement, this Agreement or any amendment to 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, either Party based on the preparation or negotiation of this Agreement or any amendment to this Agreement. The headings contained in this Agreement are for convenience of reference only and shall not effect this Agreement's construction or interpretation.

24. 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, including, in the case of the County, future County Boards of Supervisors, and, in the case of the Tribe, future Tribal Councils or General Councils, and shall restrict any lands acquired by the Tribe in the County. The County intends that its approval, execution, delivery and performance of this Agreement shall (not be construed to be an express or implied enactment, adoption or amendment of any zoning ordinance, general plan, special plan or elements thereof.

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

Date: _____, 2008

SONOMA COUNTY, CALIFORNIA

_____
Chair of the Board of Supervisors

APPROVED AS TO FORM
STEVEN WOODSIDE, COUNTY COUNSEL

Date: _____, 2008

By: _____
Jeffrey M. Brax
Deputy County Counsel

THE FEDERATED INDIANS OF THE GRATON RANCHERIA

Date: _____, 2008

By: _____
Greg Sarris
Chairperson

APPROVED AS TO FORM BY LEGAL COUNSEL FOR THE TRIBE

Date: _____, 2008

By: _____
John Maier, Esq.
Maier Pfeffer & Kim, LLP

EXHIBIT A

Office. Please reference Batch IV ITPs for 41 applications in requests for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Valenta, Regional HCP Coordinator (see **ADDRESSES**), telephone: 404–679–4144, or Mr. Darren LeBlanc, Fish and Wildlife Service Biologist, Daphne Field Office (see **ADDRESSES**), telephone: 251–441–5859.

SUPPLEMENTARY INFORMATION: We announce applications for 41 ITPs, including the HCPs, and the availability of an EA. The EA is a combined assessment addressing the environmental impacts associated with these projects both individually and cumulatively. Copies of these documents may be obtained by making a request, in writing, to the Service's Regional Office (see **ADDRESSES**). This notice advises the public that we have opened the comment period on the ITP applications, the HCPs, and the EA. This notice is provided pursuant to section 10 of the Act and National Environmental Policy Act regulations at 40 CFR 1506.6.

We specifically request information, views, and opinions from the public on the Federal action, including the identification of any other aspects of the human environment not already identified in our EA. Further, we specifically solicit information regarding the adequacy of the HCPs as measured against our ITP issuance criteria found in 50 CFR parts 13.21 and 17.22.

If you wish to comment, you may submit comments by any one of several methods. Please reference Batch IV ITPs for 41 applications for residential development in such comments. You may mail comments to our Regional Office (see **ADDRESSES**). You may also comment via the Internet to *aaron_valenta@fws.gov*. Please include your name and return mailing address in your Internet message. If you do not receive a confirmation from us that we have received your Internet message, contact us directly at either telephone number listed (see **FOR FURTHER INFORMATION CONTACT**).

Finally, you may hand-deliver comments to either Service office listed (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The ITPs would cover 41 discrete lots totaling 23.2 acres on the Fort Morgan Peninsula. Under the preferred alternative, project development would result in the overall loss of 4.25 acres of ABM habitat. Minimization and mitigation of impacts includes: reduced project impacts, maintenance of ABM habitat on-site, prohibition of cats, preservation of dune habitat, and elimination of debris.

We will evaluate the HCPs, applications, and any received comments to determine whether the applications meet the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITPs will be issued for the incidental take of the ABM. We will also evaluate whether issuance of the section 10(a)(1)(B) ITPs comply with section 7 of the Endangered Species Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITPs.

Dated: April 30, 2008.

Noreen E. Walsh,

Acting Regional Director.

[FR Doc. E8–10052 Filed 5–6–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Land Acquisitions; Federated Indians of Graton Rancheria, California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Agency Determination To Take Land into Trust under 25 CFR Part 151.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire approximately 254 acres of land into trust for the Federated Indians of Graton Rancheria of California on April 18, 2008. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

FOR FURTHER INFORMATION CONTACT: George Skibine, Director, Office of Indian Gaming, MS–3657 MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 219–4066.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR Part 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On April 18, 2008, the Assistant Secretary—Indian Affairs decided to accept approximately 254 acres of land into trust for the Federated Indians of Graton Rancheria of California. The Graton Rancheria was restored to federal recognition pursuant to Title XIV of Public Law 106–568 (the Graton Rancheria Restoration Act), 25 U.S.C. 1300n-3, which mandates that, "the Secretary shall accept into trust for the benefit of the Tribe any real property located in Marin or Sonoma County...". The 254 acre parcel is located in Sonoma County, California.

The legal description of the property is as follows:

Tract One

Farms 102, 103, 104, 105, 106, 124, 125, 126 and 127, as shown upon the Map of Plan of Subdivision of Santa Rosa Farms No. 2, filed March 7, 1910 in the Office of the County Recorder of Sonoma County in Book 21 of Maps, Page 14, Sonoma County Records. Certificate of Compliance recorded January 28, 1998 as Document No.'s 1998 0008588 through 1998 0008596, Sonoma County Records. Being Assessors Parcel No. 045–073–001

Tract Two

Parcel One

Farms 130 and 131 as shown upon the Map of Plan of Subdivision of Santa Rosa Farms No. 2 filed March 7, 1910 in the Office of the County Recorder of Sonoma County in Book 21 of Maps, Page 14, Sonoma County Records. Certificate of Compliance recorded January 28, 1998 as Document No.'s 1998 0008597 and 1998 0008598, Sonoma County Records. Being a portion of Assessor's Parcel No. 045–074–009.

Parcel Two

Farm 129 of Santa Rosa Farms No. 2, according to Map thereof filed in the Office of the County Recorder of said County on March 7, 1910 in Book 21 Maps, Page 14, Sonoma County Records.

Being Assessor's Parcel No. 045–074–010.

Parcel Three

Farm No. 128 as same is shown upon that certain Map Entitled "Plan of Subdivision of Santa Rosa Farms No. 2, Sonoma Co., Cal., Etc.", filed March 7, 1910 in Book 21 of Maps at Page 14.

Saving and Excepting Therefrom, the following:

Commencing at the Southeasterly corner of said Farm No. 128; thence Northerly along the Eastern line thereon, 155 feet and 7 inches to a point, for the actual point of commencement of the tract to be herein described; thence from said point of commencement, South 89° West, 289 feet and 6 inches to a point; thence Northerly, parallel with the Eastern line of said Farm No. 128, a distance of 155 feet and 10 inches to a point; thence North 89° East, 289 feet and 6 inches to the Eastern line of said Farm No. 128; thence Southerly along said Eastern line, 155 feet and 10 inches to the point of commencement.

Also Saving and Excepting Therefrom, the following:

Beginning at a point on the center line of Labath Avenue, which point is the Southeast corner of Lot 128 as shown upon the Map entitled "Plan Of Subdivision of Santa Rosa Farms No. 2, Sonoma Co., Cal., Etc.", filed March 7, 1910 in Book 21 of Maps, Page 14, Sonoma County Records; thence North 1° West along the Easterly line of Lot 128, a distance of 155 feet, 7 inches to a point; thence South 89° West, 289.5 feet; thence North 1° West, 77 feet, 10 inches; thence South 89° West, 283.66 feet to the Westerly line of said Lot 128; thence along said line, South 1° East, 233.5 feet to the Southwest corner of said Lot 128; thence along the Southerly line of said Lot, North 89° East, 573.16 feet to the point of beginning.

Being Assessor's Parcel No. 045–073–002.

Tract Three

A Portion of Farm No. 128 as shown upon the Map entitled "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, more particularly described as follows:

Commencing at the Southeasterly corner of said Farm No. 128; thence Northerly along the Easterly line thereof, 155 feet, 7 inches to a point for the true point of beginning of the tract to be herein described; thence South 89° West 289 feet, 6 inches to a point; thence Northerly parallel with the Easterly line of said Farm No. 128, a distance of 155 feet, 10 inches to a point; thence North 89° East, 289 feet, 6 inches to the Easterly line of said Farm No. 128; thence Southerly along said Easterly line, 155 feet, 10 inches to the point of beginning.

Being Assessor's Parcel No. 045–073–003.

Tract Four

Beginning at a point on the center line of Labath Avenue which point is the Southeast corner Lot 128 as shown upon the Map entitled Plan of Subdivision of Santa Rosa Farms No. 2, Sonoma County, California, etc., filed March 7, 1910 in Book 21 of Maps, page 14, Sonoma County Records; thence North 1° West along the Easterly line of Lot 128, a distance of 155 feet 7 inches to a point; thence South 89° West, 289.5 feet; thence North 1° West, 77 feet 10 inches; thence 89° West, 283.66 feet to the Westerly line of said Lot 128; thence along said line South 1° East, 233.5 feet to the Southwest corner of said Lot 128; thence along the Southerly line of said Lot, North 89° East, 573.16 feet to the point of beginning.

Being Assessor's Parcel No. 045–073–004.

Tract Five

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.

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.

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. G–60052, Sonoma County Records.

Being Assessor's Parcel Nos. 046–021–020 & 021,046–021–039 & 040.

Tract Six

All that certain real property situated in the City of Rohnert Park, County of Sonoma, State of California, described as follows: Lot 6, as shown on the map of "Rohnert Business Park Subdivision", filed August 12, 1985 in the office of the County Recorder in Book 375 of Maps, at pages 10 and 11, Sonoma County Records.

Being Assessor's Parcel No. 143–040–068.

Dated: April 18, 2008.
Carl J. Artman,
Assistant Secretary—Indian Affairs.
[FR Doc. E8–10064 Filed 5–6–08; 8:45 am]
BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–060–08–1430–EQ; UTU–81536]

Notice of Realty Action; Re-Issuance; Noncompetitive Lease of Public Land; Grand County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Re-issuance.

SUMMARY: This notice announces the re-issuance of the Notice of Realty Action published in the **Federal Register** on March 14, 2006 and cancelled by notice published on July 21, 2006.

DATES: Interested parties may submit comments to the BLM Acting Moab Field Manager, at the address below. Comments must be received by not later than June 23, 2008. Only written comments will be accepted.

ADDRESSES: Address all written comments concerning this notice to the BLM Acting Moab Field Manager, 82 East Dogwood Avenue, Moab, Utah 84532. Please send e-mail comments to the following address: *momail@ut.blm.gov.*

FOR FURTHER INFORMATION CONTACT: Mary von Koch, Realty Specialist, Moab Field Office, 435–259–2128.

SUPPLEMENTARY INFORMATION: The decision to cancel the Notice of Realty Action was based on the comments received during the 45-day comment period. Since July of 2006, all the impediments that led to the cancellation of the Notice of Realty Action have been removed. BLM has determined that the following 2,808.67 acres of isolated public lands in Grand County, Utah, are suitable for lease pursuant to Section 302 of the Federal Land Policy and Management Act of 1976 (FLPMA) (90 Stat. 2762; 43 U.S.C. 1732) using noncompetitive (direct) lease procedures.

Salt Lake Meridian

T. 20 S., R. 16 E.,
Sec. 25, S½;
Sec. 26, SW¼SW¼, E½SW¼, and SE¼;
Sec. 27, SE¼SE¼;
Sec. 28, E½SE¼;
Sec. 34, W½NW¼.
T. 21 S., R. 16 E.,
Sec. 1, lots 1, 4, 5, 8, 9, 11, 12, 13, and 16.
T. 21 S., R. 17 E.,
Sec. 4, lots 11, 12, 13, 14, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 5, E½SE¼;
Sec. 6, lots 2, 3, 4, 5, 7, and 10;
Sec. 7, lot 4, SE¼SW¼, and SE¼;
Sec. 8, NW¼SW¼, SE¼SW¼, and SE¼;
Sec. 9, N½N½, S½NE¼, SW¼NW¼, and S½

Green River Farms, a domestic corporation, has proposed to file with BLM an application to lease the above public lands, located near Green River, Utah. The lands would be used, occupied and developed as a commercial agricultural farm in conjunction with adjoining private lands owned by Green River Farms and lands leased to Green River Farms by the State of Utah School and Institutional Trust Lands Administration.

After review, the BLM has determined that the proposed use of the above described parcels is in conformance with the Grand Resource Area Resource Management Plan, and that the above described land is available for that use. Therefore, pursuant to section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)) and the implementing regulations at 43 CFR part 2920, the BLM will accept for processing an application to be filed by Green River Farms, or its duly qualified designee, for a non-competitive lease of the above described lands, to be used, occupied, and developed as stated above. A non-competitive lease may be employed in this case because all of the subject tracts of public land are adjacent to lands of the same proposed farming project. A detailed description of the negotiated, non-competitive process was provided in the original notice.

On or before June 23, 2008, interested parties may submit comments to the BLM at the address stated above with respect to:

(1) The decision of the BLM regarding the availability of the lands described herein and

(2) The decision of the BLM to accept for processing an application from Green River Farms for a non-competitive lease.

Facsimiles, telephone calls, and electronic mails are unacceptable means of notification. Comments including names and street addresses of respondents will be available for public review at the BLM Moab Field Office during regular business hours, except holidays. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any adverse comments will be reviewed by the BLM Utah State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, or adverse comments, the proposed realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2920.4.

Dated: April 30, 2008.
Selma Sierra,
State Director.
[FR Doc. E8–10051 Filed 5–6–08; 8:45 am]
BILLING CODE 4310–DQ–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–565 Consolidated Enforcement Proceeding]

In the Matter of Certain Ink Cartridges and Components Thereof; Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to exclusion orders and cease and desist orders issued at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael Haldenstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3041. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov/*. Hearing-impaired persons are advised that information on

EXHIBIT B

EXHIBIT B
TO MEMORANDUM OF AGREEMENT

GENERAL COUNCIL RESOLUTION

FEDERATED INDIANS OF GRATON RANCHERIA

RESOLUTION AUTHORIZING A LIMITED WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY IN FAVOR OF THE COUNTY OF SONOMA WITH RESPECT TO THE APPROVAL OF A MEMORANDUM OF AGREEMENT CONCERNING FUTURE TRUST ACQUISITIONS.

GENERAL COUNCIL RESOLUTION NO.: GC08-15
DATE APPROVED: June 14, 2008

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: Article III, Section 1 of the Constitution provides that the governing body of the Tribe is the Tribal Council; and

WHEREAS: Article VI, Section 1 provides the Tribal Council with the authority, on behalf of the Tribe, to negotiate and conclude agreements with local governments; 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, The Secretary of the Interior has determined that a provision in the Graton Rancheria Restoration Act (the "Restoration Act") makes it mandatory for the Secretary to accept land that is located within Sonoma and Marin Counties into trust for the Tribe; and

WHEREAS, The Tribe is prepared to address the County of Sonoma's (the "County") concern that the Restoration Act may provide the Tribe the right to acquire additional lands in trust as a mandatory acquisition without environmental review or consultation with the affected communities; and

WHEREAS: The Tribal Council, with the assistance of counsel, has negotiated a Memorandum of Agreement ("Agreement") with the County which, among other things, clarifies and restricts the legal basis for any future trust applications filed by the Tribe; and

WHEREAS: The Tribal Council has determined that it is in the best interests of the

Tribe to enter into the Agreement with the County that is legally binding and enforceable on both the Tribe and the County; and

WHEREAS: The Tribal Council has requested that the General Council approve a limited waiver of the Tribe's sovereign immunity in favor of the County with regard to disputes specifically arising under the Agreement for injunctive relief and, for breach of the prohibition on additional mandatory trust acquisitions, liquidated damages as provided and to the extent set forth in the Agreement, and to consent to the jurisdiction of the Marin and Sonoma Superior Courts as provided and to the extent set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT the General Council, as provided and to the extent set forth in the Agreement, hereby grants a limited waiver of the Tribe's sovereign immunity in favor of the County (but not as to any other person or entity) pertaining solely to disputes specifically arising under the Agreement for injunctive relief and liquidated damages as provided and to the extent set forth in the Agreement, and consents to the jurisdiction of the Marin and Sonoma Superior Courts as provided and to the extent set forth in the Agreement.

BE IT FURTHER RESOLVED THAT the General Council hereby authorizes Greg Sarris, the Chairperson of the Tribe, to execute and deliver the Agreement to the appropriate officials of the County in the name of and on behalf of the Tribe.

CERTIFICATION

We the undersigned do hereby certify that the foregoing resolution was duly adopted by the General Membership on the 14 day of June, 2008, at a General Council meeting at which a quorum of the registered voters was present, by a vote of 61 for 0 ~~63~~ opposed, and 0 abstaining, and that said Resolution has not been rescinded or amended in any way.

Greg Sarris
Chairman

ATTEST:

Jeannette Anglin
Secretary

EXHIBIT C

RESOLUTION NO. _____

DATED: _____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, APPROVING A MEMORANDUM OF AGREEMENT BY AND BETWEEN THE COUNTY OF SONOMA AND THE FEDERATED INDIANS OF GRATON RANCHERIA.

WHEREAS, on May 7, 2008, the Bureau of Indian Affairs ("BIA") published a notice in the Federal Register of its final agency determination to take into trust approximately 254 acres within Sonoma County for the Federated Indians of Graton Rancheria ("Graton Rancheria");

WHEREAS, the County is concerned that the BIA's decision may set a precedent for future trust determinations and allow development of multiple gaming sites in Sonoma County;

WHEREAS, the County is concerned that future Tribal development projects may avoid environmental review and mitigation of impacts, and may not be compliant with the County Zoning Code or consistent with the General Plan Land Use and Open Space and Resources Conservation Elements;

WHEREAS, the County and Graton Rancheria have entered into an agreement extending the County's time to engage in federal litigation challenging the BIA's decision;

WHEREAS, the County and Graton Rancheria have negotiated a comprehensive agreement to address the County's concerns and avoid the need for litigation;

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors hereby agrees to enter the attached Memorandum of Agreement with the Federated Indians of Graton Rancheria.

SUPERVISORS:

BROWN _____ SMITH _____ KELLEY _____ REILLY _____ KERNS _____

AYES _____ NOES _____ ABSTAIN _____ ABSENT _____

SO ORDERED.

94752.3

EXHIBIT D

EXHIBIT __
TO MEMORANDUM OF AGREEMENT

TRIBAL COUNCIL RESOLUTION

FEDERATED INDIANS OF GRATON RANCHERIA

RESOLUTION INTERPRETING THE RESTORATION ACT AS ALLOWING THE SECRETARY TO EXERCISE DISCRETIONARY AUTHORITY OVER ALL FUTURE TRUST APPLICATIONS FOR THE TRIBE AND PROVIDING THAT THE TRIBE DOES NOT INTEND TO AND WILL NOT FILE ANY FUTURE APPLICATION REQUESTING THAT THE SECRETARY TAKE ANY LANDS WITHIN THE COUNTIES OF MARIN AND SONOMA OTHER THAN THE RESERVATION UNDER THE RESTORATION ACT UNLESS THE SECRETARY AGREES TO FULLY EXERCISE DISCRETION OVER THE APPLICATION.

TRIBAL COUNCIL RESOLUTION NO.: _____
DATE APPROVED: _____, 2008

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: Article III, Section 1 of the Constitution provides that the governing body of the Tribe is the Tribal Council; and

WHEREAS: Article VI, Section 1 provides the Tribal Council with the authority, on behalf of the Tribe, to negotiate and conclude agreements with local governments; and

WHEREAS, The Secretary of the Interior ("Secretary") has determined that a provision in the Graton Rancheria Restoration Act (the "Restoration Act") makes it mandatory for the Secretary to accept land that is located within Sonoma and Marin Counties into trust for the Tribe; and

WHEREAS: The Tribal Council agrees with the Secretary's interpretation of the Restoration Act with respect to the Tribe's initial application to reestablish the Tribe's reservation, but interprets the Restoration Act as allowing the Secretary to exercise discretionary authority over all future trust applications for the Tribe; and

WHEREAS, The Assistant Secretary – Indian Affairs had made a final agency determination to acquire approximately 254 acres of land located within and near the City of Rohnert Park in Sonoma County into trust for the Tribe as a mandatory trust acquisition pursuant to the Restoration Act; and

WHEREAS, Upon acceptance of the 254 acres of land into trust and a determination that the land is eligible for gaming, the land will become the Tribe's reservation ("Reservation"); and

WHEREAS, The Tribal Council does not intend to and will not file any future application requesting that the Secretary take any lands within the counties of Marin and Sonoma other than the Reservation under the Restoration Act unless the Secretary agrees to exercise full discretion over the application.

NOW, THEREFORE, BE IT RESOLVED THAT the Tribe interprets the Restoration Act as allowing the Secretary to exercise discretionary authority over all future trust applications for the Tribe; and

BE IT FURTHER RESOLVED THAT the Tribe does not intend to and will not file any future application requesting that the secretary take any lands within the counties of Marin and Sonoma other than the Reservation under the Restoration Act unless the Secretary agrees to fully exercise discretion over the application.

CERTIFICATION

We the undersigned do hereby certify that the foregoing resolution was duly adopted by the Tribal Council on the ____ day of _____, 2008, at a Tribal Council meeting at which a quorum was present, by a vote of _____ for ____ opposed, and ____ abstaining, and that said Resolution has not been rescinded or amended in any way.

_____
Chairman

ATTEST:

_____
Secretary

EXHIBIT E

EXHIBIT E

ENVIRONMENTAL REVIEW AND MITIGATION PROCESS

I. DEFINITIONS

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

1.1 'Compact' means a Tribal-State Gaming Compact which the Tribe and the State of California may enter into for the conduct of Class III gaming activities pursuant to IGRA.

1.2 'Cumulatively Significant Impacts' means the possible impacts on the off-Reservation environment of a Tribal Commercial Development Project that may be individually limited but cumulatively significant if the incremental impacts of an individual project are considerable when viewed in connection with the impacts of past projects, other current projects, and reasonably foreseeable future projects.

1.3 'Gaming Facility' means a building in which Gaming is taking place.

1.4 'Gaming Operations' means the conduct of Gaming and the operation of the Gaming Facility, including the administration and other necessary services.

1.5 'Interested Person' means (i) the County; (ii) any city that has boundaries that are contiguous to the boundaries of the Trust Land on which a Tribal Commercial Development Project is proposed; (iii) any state and/or federal agency that, if a project were not taking place on Indian lands, would have responsibility for approving a Tribal Commercial Development Project or would lawfully exercise authority over the natural resources that may be impacted by a Tribal Commercial Development Project; and (iv) any person, group, political subdivision, or agency that submits a timely written request to the Tribe to receive a Notice of Preparation or Completion of a draft TEIR, or has timely commented on a Tribal Commercial Development Project in a writing received by the Tribe or the Tribe's consultants in accordance with the applicable process for considering such comments.

1.6 'Intergovernmental Mitigation Agreement' means an agreement between the Parties with respect to off-Reservation mitigation measures in connection with a Tribal Commercial Development Project that is subject to the environmental review provisions of this Agreement.

1.7 'Mitigation Process Agreement' is the memorandum of understanding between the Tribe and County made effective as of November 1, 2004 that provides for good faith negotiations and binding arbitration over appropriate mitigation for off-Reservation impacts of the Casino Project.

1.8 'Non-Commercial Tribal Project' means a Project on Trust Land related exclusively to an intended or existing non-commercial activity or purpose except as provided for in Section 1.14.2.

1.9 'Project' means any activity on Trust Land that has the potential for resulting in either a direct physical change in the off-Reservation environment or a reasonably foreseeable indirect physical change in the off-Reservation environment, and that is directly undertaken or supported by the Tribe or involves the issuance of a lease, permit, license, or other entitlement for use by the Tribe.

1.10 'Reservation' is as defined in the Restoration Act, 25 U.S.C. § 1300n-1(b).

1.11 'Significant Adverse Impact(s)' means a substantial or potentially substantial adverse change in the off-Reservation environment.

1.12 'State Clearinghouse' means the California State Clearinghouse and Planning Unit (within the Governor's Office of Planning and Research).

1.13 'TEIR' means a Tribal Environmental Impact Report, as described in Section ___ below.

1.14 'Tribal Commercial Development Project' means a Project that consists of any of the following:

1.14.1 A Project undertaken for, or in connection with, a commercial purpose or enterprise, excluding the Casino Project, except for expansions of the Casino Project; and

1.14.2 Non-Commercial Tribal Projects that include the construction of more than six single family houses, six or more residential units in one building, or any building that is more than three stories in height.

II. ENVIRONMENTAL REVIEW

2.1 The Tribe and County agree on the importance of conducting an appropriate environmental analysis of Tribal development projects to determine potential off-Reservation adverse environmental impacts and appropriate mitigation. Toward this end, the Tribe will enact an Environmental Ordinance to provide a process and procedures for determining off-Reservation environmental impacts of Tribal development projects on Trust Land, and to identify mitigation measures consistent with this Agreement.

2.2 Future Tribal Commercial Development Projects undertaken by the Tribe on Trust Land shall be subject to the off-Reservation environmental impact processes set forth in this Section II, including all subdivisions thereof and the Binding Arbitration process set forth in Section III.

2.2.1 Future Non-Commercial Tribal Projects are not subject to the environmental impact processes set forth in this Agreement. If the Tribe adopts or follows some or all of the environmental processes set forth in this Agreement for a Non-Commercial Tribal Project(s), the County shall cooperate in good faith in timely reviewing and commenting on reports and studies submitted by the Tribe, and meeting and conferring with the Tribe on mitigation measures at the Tribe's request. The Tribe's participation in environmental processes with the County under such circumstances shall not be deemed to be a waiver of the Tribe's

sovereign jurisdiction or immunity unless expressly provided in writing, nor shall participation in any process in this Agreement be deemed to constitute such a waiver except as expressly set forth.

2.2.2 Except as may be expressly provided herein, nothing in this Agreement shall be construed to:

a. Supplant or limit the application of any otherwise applicable federal law or regulation, including but not limited to NEPA;

b. Confer jurisdiction on the County or the State, or diminish the Tribe's sovereign powers and jurisdiction, over any Trust Land; or

c. Supplant or limit the jurisdiction of any federal or State agency.

2.2.3 For any Tribal Commercial Development Project, the Tribe shall issue either a Notice of Exemption or Notice of Completion of a Tribal Negative Declaration or Draft TEIR. The Tribe shall consult with the County at the earliest practicable date in its project development, consistent with Section 2.2.4 below, and in any event at least 45 days prior to the issuance of a Notice of Exemption or Notice of Completion of a Tribal Negative Declaration or Draft TEIR.

2.2.4 A purpose of the consultation process is to permit and facilitate County input into design considerations, mitigation measures, and issues that may be appropriate for an Intergovernmental Mitigation Agreement. Such consultations shall be confidential to the extent permitted by law. Nothing in this Section shall either limit the Tribe's jurisdiction or grant to the County jurisdiction or authority regarding the design of a Tribal Commercial Development Project or Non-Commercial Tribal Development Project.

2.2.5 Tribal Exemption Process.

a. The Tribe shall conduct a preliminary review once it has a specific proposed Tribal Commercial Development Project. If the Tribe determines, on the basis of substantial evidence, that the Project would be exempt under Articles 18 and 19 of the State CEQA Guidelines, the Tribe may issue a Notice of Exemption at the time it approves or determines to carry out the Project.

b. The Notice of Exemption shall include (1) a brief description of the Project; (2) the location of the Project, either by street address or by attaching a specific map; (3) a finding that the Project would be exempt from CEQA under one or more sections of Articles 18 or 19; and (4) a brief statement of reasons to support the finding.

c. Upon adoption, the Notice of Exemption shall be sent to the County and Interested Parties by mail, electronic mail, and/or fax.

2.2.6 Tribal Initial Study Process.

a. If a Tribal Commercial Development Project would not be exempt under Articles 18 and 19 of the State CEQA Guidelines, the Tribe shall conduct an initial study to determine if the Project may have a Significant Adverse Impact on the environment. If the Tribe can determine that a TEIR will be required for the Project, an initial study is not required.

b. An initial study shall contain: (1) a description of the Project, including its location; (2) an identification of the environmental setting; (3) an identification of environmental effects by use of a checklist or matrix similar to Appendix G of the State CEQA Guidelines; (4) a brief explanation indicating evidence to support the conclusions regarding the significance of Project impacts; (5) a discussion of ways to mitigate Significant Adverse Impacts; (6) an examination of whether the Project would be consistent with existing zoning, plans, other local land use controls; and (7) the name of the person or persons who prepared the initial study.

2.2.7 Tribal Negative Declaration Process.

a. If, following completion of an initial study, the Tribe determines that a Tribal Commercial Development Project is not likely to have a Significant Adverse Impact in those areas identified in Section 2.2.8b(iii), the Tribe may prepare a Tribal Negative Declaration in lieu of conducting the studies and preparing the materials required for a TEIR under this Agreement. Upon completion of the draft Negative Declaration, the Tribe shall submit a copy of the draft Negative Declaration and a Notice of Completion to Interested Parties, the County, and the State Clearinghouse. The initial study and Negative Declaration shall be circulated for comment to the public, Interested Parties, the County and the State Clearinghouse for at least thirty (30) days.

b. The Tribe shall consider any comments received during the minimum 30-day review process and may adopt a final Negative Declaration or a mitigated Negative Declaration if it finds that, based on the record as a whole, there is no substantial evidence that the Project will have a Significant Adverse Impact. The County may request an additional fifteen (15) day extension for further technical review or to prepare and obtain authorization to issue comments, and such request shall not be unreasonably denied by the Tribe. Nothing in this Section shall preclude the Parties from agreeing to a longer period of time in which to submit comments if such an extension is warranted. The Tribe shall provide the record and the appropriate environmental document to the County within ten (10) days of its adoption.

c. During the comment period for the Negative Declaration, or within such additional time period as the Parties may agree, the County may, for reasonable cause, initiate the Intergovernmental Mitigation Agreement provisions set forth in Section 3, and if no agreement can be reached, initiate the dispute resolution processes herein, including the Binding Arbitration provisions. "Reasonable cause" means that the County has substantial evidence that the Tribal Commercial Development Project would result in a Significant Adverse Impact that would not be mitigated to less than significant.

2.2.8 Tribal Environmental Impact Report (TEIR) Process.

a. If the Tribe determines that a Tribal Commercial Development Project may have a Significant Adverse Impact in those areas identified in Section 2.2.8(b(iii), the Tribe shall cause a TEIR to be prepared that analyzes potentially Significant Adverse Impacts, as provided below. The Tribe shall consult with the County regarding the scope of the environmental review and consider any recommendation from the County concerning the person or entity to prepare the TEIR.

b. The Tribe shall undertake good faith efforts to identify and disclose in the TEIR any Significant Adverse Impacts that would be caused by the Project. The TEIR also shall identify ways in which Significant Adverse Impacts could be avoided or mitigated to less than significant and, where such a result cannot be reasonably obtained, analyze how impacts can be reasonably minimized, if possible, and shall include a statement setting forth all of the following:

(i) All Significant Adverse Impacts of the proposed Project;

(ii) Any Significant Adverse Impacts that cannot be avoided or mitigated to less than significant if the Project is implemented;

(iii) Mitigation measures proposed to minimize or avoid Significant Adverse Impacts, including but not limited to those having an effect on aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, and utilities and service systems;

(iv) Reasonable and feasible alternatives to the Project;

(v) Any Cumulatively Significant Impacts; and

(vi) Whether the proposed mitigation would be effective to reduce the potential Significant Adverse Impacts to a level of less than significant.

c. In addition to the information required pursuant to Section 2.2.8(b), the TEIR shall also contain a statement briefly indicating the reasons for determining, if such is the case, that the impacts of the Project on the off-Reservation environment are not significant and consequently have not been discussed in detail in the TEIR. Such a statement can be contained in an initial study or environmental checklist and attached as an exhibit to the TEIR. Any Significant Adverse Impacts shall be clearly identified and described in the TEIR, giving due consideration to both the short-term and long-term impacts. The discussion of mitigation measures shall describe feasible measures that could minimize or avoid the Significant Adverse Impacts. If a mitigation measure is infeasible, the TEIR must demonstrate the specific economic, technological, legal, or other considerations which make the identified mitigation measure infeasible. The TEIR must analyze the proposed project as a whole, including activities that the Tribe determines are reasonably foreseeable.

d. The TEIR shall also contain an index or table of contents and a summary, which shall identify each Significant Adverse Impact on the off-Reservation environment together with proposed measures that would reduce or avoid that impact.

2.2.9 Notice of Preparation and Determination of Scope of TEIR. If the Tribe determines a TEIR is required for a Tribal Commercial Development Project, the Tribe shall issue a Notice of Preparation to the State Clearinghouse, the County, and Interested Persons.

a. The Notice shall include all of the following information:

(i) A description of the Project;

(ii) The location of the Project shown on a detailed, preferably topographical, map, and on a regional map; and

(iii) The probable off-Reservation Significant Adverse Impacts of the Project.

b. The Notice shall also inform all Interested Persons of the opportunity to provide comments to the Tribe, within at least thirty (30) days of the receipt of the Notice of Preparation by the State Clearinghouse and the County, of significant environmental issues, reasonable alternatives, and/or mitigation measures that such persons may contend should be explored in a draft TEIR.

2.2.10 In addition, the Tribe shall meet with the County to assist the Tribe in determining the scope and content of the TEIR within fifteen (15) days of such a request by the County. Such request shall be made within fifteen (15) days of the County's receipt of the Notice. Such scoping meeting between the Parties shall take place within the minimum 30 day comment period unless another date is mutually agreed upon in writing between the Parties.

2.2.11 The Tribe shall conduct a scoping hearing for Projects of statewide, regional, or area wide significance and provide public notice of the hearing consistent with the timeline and mechanisms for service contained in Section 2.2.9, including written notification to Interested Persons.

2.2.12 Notice of Completion of the Draft TEIR. Upon completion of the Draft TEIR, the Tribe shall submit a copy of the draft TEIR and a Notice of Completion to the State Clearinghouse and the County.

a. The Notice of Completion shall include all of the following information:

(i) A brief description of the Project;

(ii) The proposed location of the Project;

(iii) An address where copies of the Draft TEIR are available; and

(iv) Notice of a comment period of at least forty-five (45) days during which the Tribe may receive comments on the Draft TEIR.

b. The Notice shall also inform Interested Persons of the preparation of the Draft TEIR and of the opportunity to provide comments to the Tribe within forty-five (45) days of the Notice. The County may request an additional fifteen (15) day extension, if such additional time is required for further technical review or to prepare and obtain approval of comments, and such an extension request shall not be unreasonably denied by the Tribe. Nothing in this Section shall preclude the Parties from agreeing to a longer extension of time to submit comments.

c. The Tribe shall submit ten (10) copies of the Draft TEIR and Notice of Completion to the County, and the Tribe will serve, in a timely manner, a Notice of Completion to all Interested Persons and to the public library closest to the Project. The Tribe shall concurrently make an electronic version of the Draft TEIR available to the public on its website. In addition, the Tribe will provide public notice by at least one of the procedures specified below:

(i) Publication by the Tribe, at least one time, in a newspaper of general circulation in the area affected by the Project. If more than one area is affected, the notice shall be published in the newspaper of largest circulation from among the newspapers of general circulation in those areas; or

(ii) Direct mailing by the Tribe to the owners and occupants of property adjacent to, but outside, the Tribal Lands (or proposed Tribal lands) on which the Project would be located. Owners of such property shall be identified as shown on the latest County assessment roll.

2.2.13 Issuance of Final TEIR. The Tribe shall prepare and make available to the County, State Clearinghouse and the public for thirty (30) days a Final TEIR, which shall consist of:

a. The Draft TEIR or a revision of the draft;

b. Comments and recommendations received on the Draft TEIR either verbatim or in summary;

c. A list of persons, organizations, and public agencies commenting on the draft TEIR;

d. The Tribe's response to comments and recommendations from the review and consultation process; and

e. Any other information added by the Tribe.

III. DISPUTE RESOLUTION

3.1 Meet and Confer to Negotiate Intergovernmental Mitigation Agreement. Not later than thirty (30) days following the publication of the Notice of Completion of a Tribal Negative Declaration or Draft TEIR, the Parties shall commence diligent and good faith negotiations and shall otherwise use their respective best efforts, including meeting and conferring, to finalize, approve, execute and deliver an Intergovernmental Mitigation Agreement for the Project. The primary objective of an Intergovernmental Mitigation Agreement is to provide for binding and mutually enforceable agreements that insure the timely mitigation of Significant Adverse Impacts, where such impacts:

a. Are primarily attributable to the Project being proposed;

b. Occur outside of the geographic boundaries of the Tribe's existing or proposed Trust Land and within the geographic boundaries of the County; and

c. Are within the jurisdiction, or impact services, that are the responsibility of the County.

3.2 Mitigation Measures. A further objective of an Intergovernmental Mitigation Agreements is to provide for measures that would mitigate any Significant Adverse Impacts on the off-Reservation environment with regard to some or all of the following resources or topics: aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, water resources, land use, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, utilities and service sytems, and cumulative effects. Such measures may include payments by the Tribe to the County to the extent not otherwise compensated for through other County mitigation measures including but not limited to the following:

a. Reasonable and fair share compensation to the County for specific public services to be provided by the County to the Tribe relating to the Project's operation;

b. Reasonable and fair share compensation for mitigation of any effect on public safety and criminal justice system impacts on the County attributable to the Project, including any reasonable and fair share contributions to the County; and

c. Reasonable and fair share contributions to the County for lost tax, fee, assessments, or other revenue to the County related to the Trust Acquisition.

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

a. Mitigation measures contained in any agreement or other arrangement between the Tribe and any other public entity or non-profit corporation that relate to the proposed Project;

b. Mitigation measures that 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 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 proposed Project on the County; and/or

c. Any demonstrated positive effects of the proposed Project with respect to the applicable environmental effect on the County.

3.4 Provision Issues. A further objective of Intergovernmental Mitigation Agreement is to avoid any provision that:

a. amounts to "double counting" in the sense that it requires the Tribe to provide contributions or implement mitigation measures that are already specifically intended to be covered by contributions or measures the Tribe has agreed to make or implement in agreements with other parties that effectively mitigate the specific impacts of the proposed Project;

b. 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 County might not permit a proposed Project on a proposed property;

c. effectively constitutes selection or implementation of a "no action" alternative or otherwise does not permit the Tribe to achieve most of its Project objectives;

d. is inconsistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (see *Nollan v. California Costal 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

e. is infeasible.

3.5 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.

3.6 Submission of Intergovernmental Mitigation Agreements. If the Parties have not approved, executed and delivered an Intergovernmental Mitigation Agreement consistent with this Section IIIwithin thirty (30) days after the date of the publication of a final Tribal Negative Declaration or Final TEIR, 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 Tribal Negative Declaration or Final TEIR, a draft Intergovernmental Mitigation Agreement that represents each Party's complete, last and best offer of an Intergovernmental Mitigation Agreement. These timelines are tolled if the Tribe has not approved a final Project configuration or alternative, or designated the same in writing. 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 configuration or alternative.

3.7 Arbitration Demand. If the Parties have not approved, executed and delivered a Intergovernmental Mitigation Agreement within fifty-five (55) days after the date of the publication of a final Tribal Negative Declaration or Final TEIR, 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 Tribal Negative Declaration or Final TEIR, demand binding arbitration, as set forth in this Section, by submitting a written notice of its intent to arbitrate to the other Party. 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 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 Intergovernmental Mitigation Agreement.

3.8 Arbitration Procedures. The arbitration shall be conducted in an expedited manner before a single arbitrator in accordance with the JAMS Streamlined Arbitration Rules, as modified by the provisions of this Section. The arbitration shall be held in Santa Rosa, 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.

3.9 The arbitrator shall consist of persons experienced in the subject matter of this MOU, including but not limited to those having expertise in CEQA, NEPA, and large commercial developments. The arbitrator shall be from the list of prior approved arbitrators attached hereto as **Exhibit AA**. The list of arbitrators shall be reviewed and revised, if necessary, through good faith negotiations of the Parties at least once every five (5) years. If at such time the Parties are unable to agree to a new list or upon the selection of a single arbitrator, then each Party shall name one arbitrator from the existing list and the two arbitrators thus selected shall select a third arbitrator who shall be a retired California Superior Court or United States District Court judge; provided, however, if either Party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, or if the two arbitrators fail to select a third arbitrator within fourteen (14) days after the appointment of the second arbitrator, then in each such instance, the Sonoma or Marin County Superior Court, on petition of any Party, shall select the necessary arbitrator(s), in accordance with California Code of Civil Procedure Sections 1280, et seq., or any successor statutes then in effect.

3.10 Arbitrators shall be contacted in the order their names appear on the list and the person highest on the list whom is available within sixty (60) days to conduct the arbitration shall be selected, unless another arbitrator is mutually agreed upon by the Parties in writing.

3.11 Once an arbitrator has been passed on the list, the selection process shall continue to move through the list in order as to the remaining arbitrators on the list, following which the selection process from the top of the list, in order, shall be repeated. If no arbitrator is available during the sixty day time frame, the first available arbitrator on the list shall be selected. If an arbitrator on the list is not available within a reasonable time frame an arbitrator shall be selected as provided for in Section 3.9. Notwithstanding the foregoing, a person shall not be eligible to serve as an arbitrator under this Agreement if the person has an interest in, or is related to, affiliated with, or has represented in a legal capacity, either Party without a written waiver from the other party.

3.12 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 Intergovernmental Mitigation Agreement that represents its complete, last and best offer of proper mitigation measures on each environmental impact or issue area and such other written materials as such Party intends for the arbitrator to consider. The draft Intergovernmental Mitigation Agreement may incorporate provisions of previously executed Intergovernmental Mitigation 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 in addition to any other evidence or testimony presented at the hearing, essential documents that the arbitrator will consider in making an award or order shall include the final Tribal Negative Declaration or Final TEIR, County comments on the same, and any Intergovernmental Agreements previously executed by the Parties.

3.13 Selection. Within ten (10) days following the hearing, the arbitrator shall, for each environmental impact or issue area, select and order the implementation of the mitigation measures identified in one of the draft Intergovernmental Mitigation Agreements submitted by a Party without modification. The arbitrator shall not have authority to issue any award or order other than (i) an order to submit a draft Intergovernmental Mitigation Agreement in accordance with Section 3.11, (ii) the selection and award of the mitigation measures identified in one of the draft Intergovernmental Mitigation Agreements submitted by a Party without modification, and (iii) specific performance of the terms of the draft Intergovernmental Mitigation Agreement selected and awarded by the arbitrator.

3.14 Award Without Review of the Merits. If the arbitrator determines that neither Party has submitted a draft Intergovernmental Mitigation Agreement that is consistent with Section 3.11 on a timely basis, the arbitrator shall order both of the Parties to immediately submit a draft Intergovernmental Mitigation Agreement that is consistent with this Section III. If the arbitrator determines that one Party has submitted a draft Intergovernmental Agreement that is consistent with Section III 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 Intergovernmental Mitigation Agreement submitted by the Party which has made a timely submission and participated in the arbitration. If the arbitrator determines that the draft Intergovernmental Mitigation Agreement submitted by one of the Parties is consistent with Section III and the draft Intergovernmental Mitigation Agreement submitted by the other Party is inconsistent with Section III, the arbitrator

shall select and award the draft Intergovernmental Mitigation Agreement which the arbitrator determines is consistent with Section III.

3.15 Award on the Merits. If the arbitrator determines that (i) both Parties have submitted draft Intergovernmental Mitigation Agreements on a timely basis, (ii) both draft Intergovernmental Mitigation Agreements are consistent with Section III, and (iii) both Parties have participated in the arbitration process, the arbitrator shall for each environmental impact or issue area select and order the implementation of the mitigation measures identified in a draft Intergovernmental Mitigation Agreement that most fully achieves the overall objectives set forth in Section III.

3.16 Mitigation Measure Issues. The Parties understand that the mitigation measures contained in an Intergovernmental Mitigation Agreement may not mitigate every environmental effect of a proposed Project to a level of insignificance, and that the arbitrator shall have authority to select and award a draft Intergovernmental Mitigation Agreement which does not mitigate every environmental effect of the Project to a level where the environmental effect is no longer "significant" (within the meaning of CEQA, including Public Resources Code § 21068 and CEQA Guideline 15382).

3.17 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 State of California Superior Court for Sonoma or Marin County or, if such Court declines jurisdiction, the federal District Court for the Northern District of California.

EXHIBIT AA

EXHIBIT AA

AGREED UPON LIST OF ARBITRATORS

1. Hon. Cruz Reynoso
   UCD/School of Law
   400 Mark Hall
   David, CA 95616
   Telephone: (530) 752-2897
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2. Hon. Fern M. Smith (Ret.)
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7. Hon. Edward Panelli
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   Fax: (213) 620-0100
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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 and procedures set forth in the Agreement.