

**INTERGOVERNMENTAL MITIGATION AGREEMENT REGARDING THE
ALEXANDER VALLEY CAMPGROUND
BETWEEN
DRY CREEK RANCHERIA BAND OF POMO INDIANS
AND
COUNTY OF SONOMA, CALIFORNIA**

This Intergovernmental Mitigation Agreement (“Agreement”) between the County of Sonoma (the “County”) and the Dry Creek Rancheria Band of Pomo Indians (the “Tribe”) (referred to herein collectively as “the Parties” and as to each as a “Party”) is entered into pursuant to the Memorandum of Agreement Between the Tribe and the County, dated March 18, 2008, as interpreted, implemented, and modified under the letters of May 28, 2010, May 23, 2011, and July 12, 2012, and as amended on September 22, 2015, by the Amendment to Memorandum of Agreement (collectively “2008 MOA”). The terms “County” and “Tribe” as used herein shall include the Parties’ governmental entities, departments and officials unless otherwise stated.

RECITALS

A. WHEREAS, the Tribe is a federally-recognized Indian Tribe, located on federal trust lands known as the Dry Creek Rancheria (“Rancheria”), within the geographic boundaries of the County; and

B. WHEREAS, the County is a political subdivision of the State of California; and

C. WHEREAS, the Tribe is currently seeking to have one parcel comprising approximately 6 acres of land located at 2411 Alexander Valley Road, Healdsburg, in the unincorporated part of Sonoma County, California placed into federal trust status (the “Trust Land Acquisition”) to restore former tribal lands and maintain the Tribe’s ancestral connection to the Russian River for camping, recreation and existing use as the public Alexander Valley Campground (the “Campground”); and

D. WHEREAS, the Tribe has significant ties to the land that is subject to the Trust Land Acquisition, including tribal use since before contact with non-Indians that is documented in ethnographic reports, and contemporary use by tribal members, including the elders who have fond memories of holding tribal picnics at the site that is now the Alexander Valley Campground, which is documented in the November 2014 Application of the Dry Creek Rancheria to the Secretary of the Interior to Accept Land into Trust for Non-Gaming Purposes (the “Application”) which is attached as Exhibit A, and the Environmental Overview which is attached as Exhibit B; and

E. WHEREAS, beginning in late 2014 and continuing to the present, the Tribe and the County participated in a series of meetings, to discuss the process and substance for addressing

potential off-Reservation environmental impacts as required in Section XIV of the 2008 MOA, and possible additional mitigation measures that might be taken with respect to the Trust Land Acquisition, consistent with the Tribe's sovereignty and applicable laws; and

F. WHEREAS, the Tribe subsequently prepared and the Bureau of Indian Affairs ("BIA") circulated an Environmental Overview ("EO") dated February 2015 for the proposed Trust Land Acquisition, that adequately studied the potential impacts of the proposed trust acquisition, which does not propose any change in land use, and therefore falls under a Categorical Exclusion from the National Environmental Policy Act of 1969 (P.L. 91-190, 42 U.S.C. § 4347); and

G. WHEREAS, the Tribe consulted with the County on September 19, 2014, November 3, 2014, and January 22, 2015, prior to filing the Application with the BIA and provided the County with an electronic copy of the Application and all Exhibits, including the EO, on September 1, 2015, at the same time that it was provided to the BIA. There have been no changes to the Application or any Exhibits thereto since they were filed with the BIA, and for purposes of this Agreement, the County has relied thereon. The County has had adequate time to review the Trust Land Application; and

H. WHEREAS, the Tribe currently holds a Use Permit #1506 which allows the County's Permit and Resource Management Department ingress and egress to the Campground for the purpose of observing, testing, sampling, placing and removing of test devices and evaluating and monitoring the Tribe's non-standard individual sewage disposal system for the RV septic tank dump station, which is attached as Exhibit C; and

I. WHEREAS, on October 17, 2011, the Tribe was granted "Treatment in the Same Manner as a State" ("TAS") authority under §518(e) of the CWA to administer CWA §303(c) Water Quality Standards ("WQS") and §401 Certification of the surface and groundwater within its Tribal lands (see Federal Register Notice attached as Exhibit D) and is thus qualified to conduct its own inspections and regulate the non-standard individual sewage disposal system pursuant to its TAS status; and

J. WHEREAS, since there is no proposed change in use of the Trust Land Acquisition as a public campground, specific impacts are difficult to measure and that the mitigation measures agreed upon below are intended as good faith mitigation of identified impacts as required by Section XIV of the 2008 MOA; and

K. WHEREAS, this Agreement, as specifically required in Section XIV of the 2008 MOA, is an important step in furthering a government-to-government relationship and building trust, mutual respect and cooperation that is intended to benefit the Tribe, its members and the entire Sonoma County community;

NOW, THEREFORE, pursuant to Section XIV-14.1 of the 2008 MOA, the Parties agree as follows:

1. This Agreement shall become effective immediately upon the date of the last required signature.

2. Capitalized terms that are not defined in this Agreement shall have the meanings ascribed to them in the 2008 MOA.
3. It is the express intent of the parties that this Agreement satisfies the requirement of XIV-14.1 of the 2008 MOA.
4. The Parties agree that they met and consulted on September 19, 2014, November 3, 2014, and January 22, 2015, prior to the Tribe filing the proposed Application with the United States to take additional land into trust within Sonoma County, and since that time their representatives have had ongoing discussions regarding the Application, this Agreement, and the issues that arise for both parties.
5. The Tribe acknowledges, and the County agrees, that the Tribe has provided in the Application, as well as Exhibit J to the Application and the Environmental Overview, sufficient information to support that it has significant ties to the land that is subject to the Trust Land Acquisition as required by Section XIV-14.1 of the 2008 MOA.
6. The Parties agree that the proposed Trust Land Acquisition is consistent with the 2008 MOA and is subject to an appropriate environmental review process for an acquisition that will not result in a change in land use.
7. The Parties agree that the Tribe's Trust Land Acquisition does not trigger the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq.*, as set forth in Section XXIV of the MOA; that this Agreement satisfies the Tribe's obligations under Section XIV-14.1 of the 2008 MOA regarding this specific Trust Land Acquisition, which anticipates no change in land use; and that the Tribe has meaningfully considered the County's General Plan and Zoning Ordinance in the course of its' environmental review.
8. The Parties agree that this non-gaming Application conforms to the September 2015 Amendment to the 2008 MOA in that the Tribe agrees not to apply for or otherwise seek federal approval for gaming purposes on this Trust Land Acquisition.
9. The Tribe acknowledges, and the County agrees, that this Agreement insures mitigation of any adverse environmental impacts of the proposal. Nothing in this Agreement, however, shall be construed to subject or otherwise bind the Tribe to the County General Plan for development on the Trust Land Acquisition or require that the County support any specific trust application or Project.
10. The County recognizes that the County General Plan and Zoning Ordinance will not be applicable to the Trust Land Acquisition, -unless specifically stated in this Agreement or the 2008 MOA. The Tribe recognizes that the County General Plan is an important and valued exercise of County authority and agrees that if the Tribe proposes a Tribal Commercial Development project other than the Campground on the Trust Land Acquisition, then the Tribe shall engage in meaningful consultation with the County regarding off trust land impact mitigation and mitigation costs, and give meaningful consideration to the County General Plan and Zoning Ordinance.

11. The Parties agree that public access from and through the Trust Land Acquisition to the Russian River is an important issue for both the Tribe and the County, and therefore the Tribe agrees to confer with the County on any Tribal proposal that would restrict existing public access to the Russian River and/or its beachhead.
12. The County acknowledges, and the Tribe agrees, that it is in the interest of both parties to cancel the County's Use Permit #1506 which includes an easement, attached as Exhibit C, and for the Tribe to assume full responsibility for observing, testing, sampling, placing and removing of test devices and evaluating and monitoring the Tribe's non-standard individual sewage disposal system for the RV septic tank dump station.
13. To ensure that the non-standard individual sewage disposal system is maintained properly, the Tribe will assume jurisdiction and all responsibility over its maintenance and operation under the following Tribal Laws:

<u>Tribal Environmental Codes</u>	<u>Adoption Date</u>
<i>Solid Waste Disposal Ordinance</i>	July 20, 2002
<i>Water Quality Ordinance</i>	July 20, 2002 (updated 4/30/16)
<i>Sewer System Ordinance</i>	August 3, 2003
<i>Water Supply System Ordinance</i>	August 3, 2003
<i>Water Well Standards Ordinance</i>	January 9, 2009

14. The Parties agree that the non-standard individual sewage disposal system will be regulated by the Tribe's Department of Environmental Protection. The Tribe shall empty the Underground Storage Tank and deliver the waste to the Tribe's wastewater treatment facility on the Rancheria, which is regulated by the Tribe under its Authorization to Discharge under the National Pollutant Discharge Elimination System ("NPDES Permit"), from the United States Environmental Protection Agency ("USEPA").
15. The Tribe shall observe, test, sample, place and remove test devices and evaluate and monitor the non-standard individual sewage disposal system consistent with the above referenced Tribal Ordinances and has provided the County with copies of each Ordinance listed above.
16. The County does not generally have permitting authority over development on Trust Lands, except as provided under the 2008 MOA, and state, and federal laws.
17. Payments made under this agreement do not constitute taxes, exactions or fees.
18. Once the Trust Land Acquisition conveyance has been recorded in the County records, the Tribe shall make an annual payment to the County in lieu of property taxes until December 31, 2032 ("the In Lieu Payment"). The In Lieu Payment shall be paid as follows:

- a. The Tribe shall pay the current tax amount of \$21,527.58, as adjusted by changes in the Consumer Price Index, either in two equal installments on December 15 of that tax year and the following April 15, or in one lump sum on December 15 of each year, at the discretion of the Tribe.
 - b. The Consumer Price Index (CPI) shall not exceed 2% annually as calculated on January 1.
 - c. The first In Lieu Payment due from the Tribe after the Trust Land Acquisition conveyance has been recorded in the County records, may be pro-rated by the County, depending on how much property taxes the Tribe paid to the County in that same year. Notice of the pro-rated amount will be sent in writing to the Tribe.
19. Use of any In Lieu Payment received by the County from the Tribe pursuant to this Agreement is subject to the sole discretion of the County Board of Supervisors. However, the County recognizes the importance of supporting the Alexander Valley region and of directing funds and financing to benefit projects and programs in the Alexander Valley region. In recognition of the importance of the Alexander Valley Region, the County may direct any portion of the In Lieu Payment received pursuant to this Agreement, to projects and programs in the Alexander Valley Region. The Tribe will be notified of any such action.
20. In consideration for the commitments made by the Tribe in this Agreement, the County agrees to support the Tribe's efforts to take the Trust Land Acquisition parcel into trust. The County agrees to issue correspondence to the appropriate state and federal agencies stating its supporting position to the federal government officials responsible for the Trust Land Acquisition. The County further agrees not to challenge any administrative decision to place the land into federal trust for the benefit of the Tribe. The County reserves the right to submit comments as part of the NEPA process on particular aspects of that Application, which shall be consistent with this Agreement.
21. The Parties agree that the terms and conditions of the 2008 MOA remain in full force and effect, and shall be incorporated by reference herein as a part of this Agreement to the end term of this Agreement. Any dispute by either party to any provision in this Agreement, shall be governed by Section XX-Dispute Resolution in the 2008 MOA.

IN WITNESS WHEREOF, the Parties hereby execute and enter into this Agreement pursuant to the 2008 Memorandum of Agreement Between the Dry Creek Rancheria Band of Pomo Indians and the County of Sonoma, dated March 18, 2008, as interpreted, implemented, and modified under the letters of May 28, 2010, May 23, 2011, and July 12, 2012, and as amended on September 22, 2015, with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

Dated: Sept 27, 2016

DRY CREEK RANCHERIA BAND
OF POMO INDIANS

By: CWJL
Chris Wright, Tribal Chairperson
Dry Creek Rancheria Band of Pomo Indians

ATTEST:

Margie Rojas
Tribal Secretary

Dated: September 27, 2016

COUNTY OF SONOMA

By: Efren Carillo
Efren Carillo, Chairperson
Sonoma County Board of Supervisors

ATTEST:

Vernice A. Jorgensen
Clerk of the Board

APPROVED AS TO FORM:

Date: September 27, 2016

LAPENA LAW CORPORATION

By: see attached
Michelle LaPena, Counsel for
Dry Creek Rancheria Band of Pomo Indians

APPROVED AS TO FORM:

Date: Sept 26, 2016

OFFICE OF THE COUNTY COUNSEL
BRUCE D. GOLDSTEIN, County Counsel

By: [Signature]
Holly E. Rickett, Deputy County Counsel

Dated: _____

DRY CREEK RANCHERIA BAND
OF POMO INDIANS

By: _____
Chris Wright, Tribal Chairperson
Dry Creek Rancheria Band of Pomo Indians

ATTEST:

Tribal Secretary

Dated: _____

COUNTY OF SONOMA

By: _____
Effren Carillo, Chairperson
Sonoma County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Date: 9/24/14

LAPENA LAW CORPORATION

By: Michelle LaPen
Michelle LaPen, Counsel for
Dry Creek Rancheria Band of Pomo Indians

APPROVED AS TO FORM:

Date: _____

OFFICE OF THE COUNTY COUNSEL
BRUCE D. GOLDSTEIN, County Counsel

By: _____
Holly E. Rickett, Deputy County Counsel

