

[Proposed] Amended and Restated
Memorandum of Agreement
between
Dry Creek Rancheria Band of Pomo Indians
and
County of Sonoma

FEBRUARY 28, 2023

Dry Creek Rancheria Band of Pomo Indians

- Federally recognized Tribe
- Reservation (in trust), located east of Geyserville
- 18 acre “Dugan Property” (in trust), contiguous to Reservation
- Operates River Rock Casino on its Reservation since 2002
- 6 acre campground (in trust) located on the Russian River about 4 miles from its Reservation
- Owns 310 acre vineyard / agricultural property (in fee) across Hwy 128 from its Reservation (aka Proschold/Bellacana Property)
- Owns 277-acre parcel (in fee) between Hwy 101 & the Petaluma River near Kastania Road

Dry Creek Rancheria Band of Pomo Indians

- Location



Jurisdictional Overview

- The County does *not* have civil regulatory authority over Tribal Trust (Reservation) Lands, including the Dry Creek Rancheria Band's Reservation.
- This means that, among other things, the County's land use and zoning laws do *not* apply.
- The County does *not* have authority to approve, deny, or condition development on the Tribe's reservation.
- The Tribe's reservation and trust lands are *not* subject to property taxes
- Pursuant to Public Law 280, the County has criminal-prohibitory jurisdiction on Tribal Trust Lands and the Sheriff's Office responds to calls to the Casino.

Agreement History – State Compacts

AGREEMENTS BETWEEN STATE AND TRIBE:

- 1999 Tribal-State Gaming Compact
- 2018 Tribal-State Gaming Compact (replaced 1999 Compact)

Agreement History – Local Agreements

AGREEMENTS BETWEEN COUNTY AND TRIBE:

- 2008 Memorandum of Agreement (“MOA”)
 - 2010, 2011, and 2012 Letter Agreements – Clarifying MOA
 - 2015 First Amendment to MOA
 - 2017 Second Amendment to MOA
 - 2021 Third Amendment to MOA
- 2016 Intergovernmental Mitigation Agreement re Alexander Valley Campground

Current Proposed Amended and Restated MOA

- Would amend and replace the 2008 MOA, as it has been interpreted and amended over last 15 years
- Assures there is a process for identifying and mitigating off-Reservation impacts of on-Reservation Casino-Resort development
- Creates a process for consultation between the Parties with the intent to resolve future disputes that may arise between the County and Tribe under the Agreement
- Creates a framework for building and maintaining a mutually beneficial government-to-government relationship between the Tribe and the County
- Increases cap on current annual payments from Tribe to County from \$1M to \$1.5M

Amended and Restated MOA Provisions

- Better government to government relations; more accurately reflects current relationship
- No applying for or seeking federal trust status for gaming purposes on Petaluma property until 2035, unless KOI Nation were to obtain DOI consent to take land into trust for gaming purposes in Sonoma County
- Future Casino Resort Project capped at a reduced size (ie. 300 rooms instead of 600, smaller Casino floor, and fewer Class III slot machines, etc.)
- Supplemental Tribal Environmental Review for Reduced Project
- Identified Mitigation Measures for construction of Reduced Project

Amended and Restated MOA Provisions

- Cal Fire Certification requirement
- Any Proschold/Bellacana property projects must be built “consistent with the surrounding uses in the Alexander Valley”
- Dedicated Public Complaint line clarifications re noise, traffic, parking
- Additional new Re-opener Triggers, including lapse of Cal Fire Certification
- Recognition of Tribe as having Treatment as State (“TAS”) status for purposes of Water Treatment Standards
- Term of Agreement, not earlier than 2043

No Change from Current MOU

- 12 Annual Live Outdoor Events
- Detailed Noise protocol and Tribe's obligations to respond;
- Conditions on 2017 ABC Liquor License;
- Sheriff response obligations;
- District Attorney obligations;
- Protocol for Dispute Resolution;
- One Casino allowed in Sonoma County at any one time;
- Tribe cannot obtain federal trust status on the Petaluma Property for non-gaming purpose before March 2025.

Recent Revisions/Corrections

Since proposed amended MOA published on the Board's page of significant upcoming items on December 28, 2022, the following revisions/corrections to the proposed amended MOA occurred:

- Corrected: Two Sections numbered as "XVI", duplicate references in the "Whereas" section to the Tribe's action to take the Alexander Valley Campground land into federal trust status, and Tribal Counsel's name;
- Added additional language identifying the mitigation already completed for the Original Casino Resort Project
- Added clarifying language identifying the Tribe's agreement for mitigation measures if the Reduced-Sized Casino Resort Project is constructed are set forth in Exhibit A;
- Clarified the gaming restriction on the Petaluma Property is extended to March 18, 2035;
- Amended the CEQA Review section with new language

CEQA

Proposed Amended Agreement (MOA) does not commit County to implement public improvement, or to take any action that may result in physical changes in the environment. It provides a process for County-Tribal government-to-government relations, consultations, tribal environmental analysis and mitigation around future development, and are either not projects under CEQA, or exempt.

County's position that pursuant to CEQA Guidelines section 15378, this Agreement is not a "project," as defined by CEQA. 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. This MOA's funding mechanism does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. The Agreement is also exempt pursuant to CEQA Guidelines section 15061(b)(3).

To the extent that the County is required to comply with CEQA with respect to any improvements, programs or activities identified in related to this agreement, the County will comply with CEQA prior to approving or implementing such, if any. The MOA does not restrict the County's discretion to evaluate the impacts of such improvement, programs, or activities; identify and adopt mitigation for such impacts; consider and approve alternatives designed to lessen such impacts; or deny approvals necessary for such improvement, programs or activities.

Proposed MOA doesn't give the County approval authority over the Tribe's future development, Tribe's future projects are not subject to CEQA.

Recommended Actions

- A) Approve Amended and Restated Memorandum of Agreement (MOA) between the Dry Creek Rancheria, Band of Pomo Indians and the County of Sonoma, which will supersede all prior MOA versions and amendments thereto. (Second and Fourth District)

- B) Delegate authority to the Board of Supervisors Chair to execute the amended MOA. (Fourth District)

Questions
