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County Counsel/CAO

MEMORANDUM OF AGREEMENT
BETWEEN
THE COUNTY OF SONOMA
AND
THE LYTTON RANCHERIA OF CALIFORNIA
FEE TO TRUST LANDS

March 10, 2015

This Memorandum of Agreement (“Agreement”) is effective as of March 10, 2015, by and between the County of Sonoma (the “County”) and the Lytton Rancheria of California (the “Tribe”) (referred to herein collectively as “the Parties” and as to each as a “Party”). The terms “County” and Tribe” as used herein shall include the Parties’ members, governmental entities, departments and officials unless otherwise stated.

RECITALS

WHEREAS, Lytton Rancheria of California is a federally-recognized Indian Tribe whose traditional lands lie within Sonoma County; and

WHEREAS, the Tribe is currently seeking to have lands placed into federal trust status to reestablish a Tribal homeland and to diversify its tribal economy; and

WHEREAS, based on its historical ties to the area, the County’s prior commitment to assist the Tribe find suitable housing, and the Tribe’s voluntary agreement to generally comply with County land use guidelines, the County desires to assist the Tribe in reestablishing a homeland for its members in the County; and

WHEREAS, it is also anticipated that the Tribe will in the future seek to place additional lands into federal trust status; and

WHEREAS, the Tribe has proposed that the federal government take into trust 14 parcels consisting of 124.12 acres of land for the development of a residential community, a community center and associated facilities (Residential Development Project) ; and

WHEREAS, the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land that includes the Residential Development Project;

WHEREAS, the Tribe prepared and the Bureau of Indian Affairs (“BIA”) circulated an Environmental Assessment (“EA”) and final Environmental Assessment (“Final EA”) for the Residential Development Project; and

WHEREAS, the Bureau of Indian Affairs issued a Finding of No Significant Impact (“FONSI”) for the Residential Development Project on June 5, 2012; and

WHEREAS, the Tribe desires to construct and operate the Residential Development Project in a manner that benefits the Tribe, its members, and the community as a whole, and the County recognizes the mutual benefit that can be derived if those goals are achieved; and

WHEREAS, the Tribe and the County have participated in a series of joint meetings to address potential off-site environmental impacts and possible mitigation measures that might be taken with respect to the Residential Development Project and other potential Tribal development, consistent with the Tribe’s sovereignty and applicable law; and

WHEREAS, the Parties wish to enter into this Agreement that would address the potential impacts to the County of any present and future trust land acquisitions by the federal government for the benefit of the Tribe, while at the same time allowing the Tribe to reestablish its homeland and exercise its authority as a sovereign government; and

WHEREAS, the Residential Development Project and other potential Tribal development are not County projects and are not subject to the discretionary approval of the County, and, absent this Agreement, the County has limited opportunity to influence mitigation measures or seek compensation for adverse environmental impacts; and

WHEREAS, the parties acknowledge that, given the scope of the Residential Development Project and other potential developments, specific impacts are not always subject to precise measurement and that the mitigation measures agreed upon below are intended as good faith approximate mitigation of identified impacts; and

WHEREAS, the Parties intend this Agreement to address commitments and procedure for mitigating impacts to the County caused by the taking of lands into trust on behalf of the Tribe and the development of projects on lands taken into trust in the future whether legislatively or through the federal administrative process; and

WHEREAS, the Parties recognize that this Agreement 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, the Parties agree as follows:

AGREEMENT

I. PURPOSE OF AGREEMENT

1.1 The purpose of this Agreement is to:

- 1.1.1 Memorialize understandings that are intended to resolve and settle disputes between the Tribe and the County;
- 1.1.2 Assure the implementation of measures for mitigating the off-site trust lands impacts of the Residential Development Project and other identified tribal projects whether lands go into trust by legislative or administrative process;
- 1.1.3 Establish a mutually agreeable process to identify and mitigate potential environmental impacts of potential future Tribal projects;
- 1.1.4 Create a process to resolve future disputes that may arise between the County and the Tribe under this Agreement;
- 1.1.5 Create a framework for building and maintaining a mutually beneficial government-to-government relationship between the Tribe and the County; and
- 1.1.6 Identify ways for the Tribe and the County to work together to provide services and benefits to the Tribal community and Sonoma County residents.

II. DEFINITIONS

The following terms shall be defined in this Agreement as set forth in this subdivision.

- 2.1 "Agreement" means this Memorandum of Agreement, as the same may be amended by written agreement of the Parties from time to time.
- 2.2 "County" means the County of Sonoma California, a political subdivision of the State, and its respective departments and subdivisions.
- 2.3 "Effective Date" means the latter date upon which this Agreement is formally approved by the County Board of Supervisors and the Tribal Council of the Tribe in forms substantially similar to Exhibits D and E.
- 2.4 "Final Environmental Assessment" or "Final EA" means the May 2011 Lytton Property Residential Development Final Environmental Assessment prepared for the Tribe by Analytical Environmental Services (AES).
- 2.5 "Gaming" or "Gaming Activities" means Class II and/ or Class III gambling activities as defined under the Indian Gaming Regulatory Act (Pub. L. 100-49, 25 U.S.C. (§2701 et seq.)
- 2.6 "NEPA" means the National Environmental Policy Act of 1969 (P.L. 91-190, 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.
- 2.7 "NEPA Guidelines" means NEPA, final NEPA guidance documents issued by the Council of Environmental Quality, and the United States Bureau of Indian Affairs NEPA Guidebook, as the same may be amended or modified from time to time intended to identify off-trust land significant impacts of tribal development projects and appropriate mitigation measures to reduce the impacts to less than significant.

2.8 "Party" means the Tribe or County.

2.9 "Parties" means the Tribe and the County.

2.10 "Residential Development Project" means the Lytton Rancheria of California Fee-to-Trust and Residential Development Project, as described in the FONSI filed with the Department of the Interior in connection with the Tribe's application to take into trust 14 parcels consisting of 124.12 acres of land and Section II of this Agreement.

2.11 "Resort" shall mean an up to 200 room lodging facility with associated amenities, including, but not limited to, restaurants, spa, wedding area, meeting and banquet facilities and gift shops.

2.12 "Trust Lands" means lands located within the geographic borders of Sonoma County and held by the federal government for the benefit of the Tribe.

2.13 "Winery" shall mean a tribal facility in Sonoma County involving a 200,000 case winery, event center, and all typically associated uses, such as, but not limited to a wine tasting facility.

III. THE RESIDENTIAL DEVELOPMENT PROJECT

3.1 The Residential Development Project shall be constructed and operated as described in this Agreement and the Final EA which is incorporated herein by reference. Among other things, the Residential Development Project includes construction of up to 147 residential units, consisting of 95 single-family detached houses of approximately 2,400 square feet; 24 cottage-style homes of approximately 1,410 square feet; 12 single-story townhomes of approximately 1,400 square feet; and 16 two-story townhomes of approximately 1,450 square feet, on locations identified in Section 2.0 and Figures 2-1 and 2-2 of the Final EA. The Parties recognize that use of the residential units is for Tribal members and their families. The residential units will not be available for rent or

lease to the general public except that a limited number of units may be leased or rented to Tribal employees. These rentals or leases shall not exceed 10% (10 percent) of the 147 residential units planned or constructed.

3.2 The Residential Development Project also includes development of an 18,809 square foot community center, 2,500 square foot round house, and 2,707 square foot retreat, as set forth in Section 2.0 and Figures 2-1 and 2-2 of the Final EA. Uses shall be as described in Section 2.1.3 of the Final EA.

IV. OFF -TRUST LANDS IMPACT MITIGATION

4.1 For Residential Development Project mitigation, the Tribe agrees to implement the Mitigation Measures and Best Management Practices as set forth in this Agreement including its Exhibit A. Pursuant to Section V, the Tribe agrees to inform the County of the status of the implementation of such measures.

4.2 The Tribe agrees to comply with the Sonoma County General Plan and Zoning Ordinance, as they exist on the Effective Date of this Agreement, for uses related to the land parcels listed in Exhibit B, which are not included in the Residential Development Project, and placed into trust for the benefit of the Tribe either through legislation or the federal administrative process with the following exceptions:

4.2.1 If the Tribe chooses to develop a Winery and/or a Resort the Tribe agrees to prepare an Environmental Impact Statement(s) (EIS), as defined in NEPA, to determine the off-trust land impacts and the appropriate off trust land mitigations. The Parties shall mutually agree on the consultant to prepare the EIS. Commensurate with the scope of the project, the Tribe and the County shall meet and confer and agree upon a mutually-beneficial public benefit. Should the Parties disagree whether the environmental analysis, level of review, proposed off trust land mitigations, or proposed public benefits are adequate, the Parties agree to first attempt informal negotiations pursuant to Section 14.1. Should the negotiations fail to resolve the dispute, the Parties

agree to submit the dispute to binding arbitration pursuant to Sections 4.4 and XIV. The Tribe agrees to give the County written notice of project construction commencement, and if arbitration is triggered within sixty (60) days of receipt of notice, the Winery and/or Resort Project construction will not commence until resolution of the arbitration proceedings.

4.2.2 The Tribe shall be allowed, consistent with the Town of Windsor General Plan, to change the use of parcel numbers, 066-050-040, 066-050-047, 066-191-007, 066-040-008 and 066-040-001 listed in Exhibit B and currently within the Town of Windsor Urban Growth Boundary (UGB) to construct up to 214 units of residential housing and Tribal community buildings not to exceed 60,000 sq. ft. The Tribe will conduct an environmental analysis and comply with NEPA Guidelines for the project. The Parties recognize that use of the residential units is for Tribal members and their families. The residential units will not be available for rent or lease to the general public except that a limited number of units may be leased or rented to Tribal employees. These rentals or leases shall not exceed 10% (10 percent) of the 214 residential units planned or constructed.

4.2.3 In the event the Tribe intends to call upon County or Windsor fire emergency services for any of its development projects, it will make available design plans for review by County Fire Emergency Services personnel and consider suggestions or recommendations intended to increase fire or building safety. The Tribe shall provide Certificates of Occupancy prepared by Tribal inspectors to County Fire Emergency Services within a reasonable time following issuance. Design and construction shall meet standards equivalent to the Uniform Fire Code and the California Building Code. Should the Parties disagree as to whether proposed off trust land mitigation for said development was adequate or was properly analyzed pursuant to NEPA Guidelines, the Parties agree to first attempt informal negotiations. Should the negotiations fail to resolve the dispute, the Parties agree to submit the disagreement to binding arbitration pursuant to Section 4.4 and Section 14.

4.3 If the Tribe purchases additional lands within the area identified in Exhibit C and chooses to seek to place such lands into trust for the benefit of the Tribe either through legislation or the federal administrative process, the Tribe agrees to 1) conduct any environmental review that may be necessary according to NEPA Guidelines; and 2) comply with the Sonoma County General Plan and Zoning Ordinance as they exist on the Effective Date of this Agreement for uses related to the lands taken into trust on behalf of the Tribe. Should the Parties disagree as to whether proposed off trust land mitigation for said development was adequate or was properly reviewed pursuant to NEPA Guidelines, the Parties agree to first attempt informal negotiations. Should the negotiations fail to resolve the dispute, the Parties agree to submit to binding arbitration pursuant to Section 4.4 and Section 14.

4.4 Only the Parties may demand arbitration. As provided for in Section XIV, arbitration shall be before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association with respect to any remaining disputes arising from, connected with, or related to the adequacy of the environmental analysis or sufficiency of mitigation for off-trust land impacts. If arbitration is demanded under the authority of this subparagraph, each Party shall exchange with the other, within five (5) days of the demand for arbitration, a last best written offer to resolve the dispute. The arbitrator shall schedule a hearing to be heard within thirty (30) days of his or her appointment unless the parties agree to extend the time. The arbitrator shall, if requested, consider the adequacy of the environmental analysis and, if sufficient, shall be limited to awarding only one or the other of the two offers submitted, without modification. The arbitrator shall choose the proposal which best provides feasible mitigation for any off-trust land impact by the development and most reasonably compensates for any additional public services required, without unduly interfering with the principal objectives of the development or imposing mitigation measures which are different in nature or scale from the type of measures that have been required to mitigate impacts of a similar scale of other developments in the surrounding area, to the extent there are such other developments. In addition, for those projects subject to compliance with NEPA Guidelines, the arbitrator shall take into consideration whether the environmental

document prepared pursuant to the NEPA Guidelines provides the data and information necessary to enable the arbitrator to determine whether the proposed mitigation measures are sufficient to address any significant off-trust land effects of the development. If the arbitrator determines the environmental document is not sufficient to determine significant off-trust land environmental impacts, the arbitrator shall order additional information to be presented sufficient to conduct that analysis. In this instance, the arbitrator shall give the Parties the opportunity to review and amend their last best offer. If a Party does not submit its last best offer as required by this sub-paragraph or does not participate in the arbitration, the arbitrator shall nonetheless conduct the arbitration.

4.5 The Parties may file suit to compel arbitration and enforce an arbitration award. Judicial review of any arbitration award made within this Section is waived by the Parties.

V. MITIGATION MONITORING AND REPORTING

5.1 During the construction and operation of the Residential Development Project and/or any other development pursuant to this Agreement, and continuing until all agreed to mitigation measures are implemented, the Tribe shall prepare and provide the County a mitigation monitoring report on at least a quarterly basis that summarizes the implementation of all agreed-to mitigation measures and their effectiveness in reducing the related impact. Mitigation reports shall, at a minimum, identify the status and degree of measure implementation, and the date of completion, and provide a signature of completion of each measure.

5.2 The mitigation reports shall be prepared by an independent, qualified consulting firm or individual mutually agreed upon by the Tribe and the County, hired and compensated by the Tribe and provided to the County. The consultant(s) engaged by the Tribe shall have a contractual independent duty to provide current and accurate unbiased timely reports to the County. The consultants engaged in the monitoring shall have the

necessary planning experience and/or engineering degrees and other expertise necessary to monitor the mitigation measures contained in this Agreement.

VI. TRIBAL DEVELOPMENT AND USE OF TRUST LAND

6.1 The County recognizes that the County General Plan and Zoning Ordinance will not be applicable to the Tribe's Trust Lands except as specifically stated in this Agreement. The Tribe recognizes that the County General Plan is an important and valued exercise of County authority and agrees that for any future new Tribal development projects on Trust Lands in the County the Tribe shall give meaningful consideration to the County General Plan and Zoning Ordinance in trust applications and other Tribal planning activities.

6.2 The County recognizes that the Tribe intends to develop a Winery and/or Resort on those parcels specifically designated in Exhibit B, not including the Residential Development Project lands.

6.3 The Tribe agrees not to engage in any Gaming or Gaming Activities in Sonoma County during the term of this Agreement. The Parties specifically agree that extension of this provision will be considered at such time as extension or modification of this Agreement is considered, as provided for in Section 9.2.

6.4 The Tribe agrees to use the County's approved franchised hauler for solid waste so long as rates are similar to those charged to other residential or commercial (for Winery and/or Resort) customers in the unincorporated Town of Windsor vicinity as set forth in the County's franchise agreement.

6.5 The Tribe agrees to maintain the rural nature of Windsor River Road through the use of landscape screening and open wire fencing.

6.6 The Tribe agrees that, should any Trust Lands create a circumstance whereby tribal trust land surrounds non-tribal land, the non-tribal land shall be guaranteed all appropriate ingress and egress rights as well as necessary easements and access for utilities and other services.

VII. MITIGATION COSTS

7.1 The Parties agree that the County does not have permitting authority over development on the Trust Lands and that the payments made under this Agreement do not constitute taxes, exactions or fees but payments by the Tribe to address potential off trust land impacts of development

7.2 In addition to the other mitigation measures the Tribe has and will implement, and any donations to the local community and government, the Tribe shall make a one-time payment to the County of six-million dollars (\$6,000,000) for mitigation of impacts, including but not limited to direct and cumulative impacts to County roads, Riverfront Regional Park and other County parks, and native oak woodlands, including regenerating blue oak woodlands as more specifically spelled out in Exhibit A. Any disputes regarding the Tribe's compliance with the agreed upon mitigation measures and best management practices in the FONSI shall be subject to the dispute resolution provisions of this Agreement. Any disputes regarding the Tribe's compliance with the conditions added by the County (those underlined in Exhibit A) shall be resolved through a meet and confer process.

7.3 The Tribe shall also make a one-time payment to the County of one hundred thousand dollars (\$100,000) to reimburse the County for general administrative overhead cost incurred by County staff and consultants to negotiate, prepare, and implement this Agreement.

7.4 The payments identified in Sections 7.2 and 7.3 shall be paid within sixty (60) days from the date the Residential Development Project Lands and the lands within the

Town of Windsor Urban Growth Boundary (UGB) or lands of equivalent acreage to the UGB and Residential Development Project lands are taken into trust for the benefit of the Tribe. If the lands taken into trust for the benefit of the Tribe differ from the Residential Development Project Lands and lands within the Town of Windsor Urban Growth Boundary (UGB) as specifically described herein, but are substantially equivalent, then the payments identified herein shall be paid. If there is a dispute as to the payment obligations provided for herein, it shall be the subject of arbitration as provided for in this Agreement.

7.5 Notwithstanding any federal or state law, once the land is taken into Trust, the Tribe agrees to allow the County Assessor's Office representative access to the Trust Lands for the purposes of establishing an assessed market valuation as of the date of establishment based on the use of the property at that time. Beginning April 10th after the establishment of the Trust, the Tribe shall pay to the County 30% of 1% of the assessed market valuation. If the Tribe disputes the assessed market valuation it may do so through the Agreement's arbitration provisions outlined herein.

7.5.1 The payment, once established, shall be fixed for an additional four payments on each successive April 10th. On or before the fifth payment, and every five years thereafter during the term of this Agreement, the Tribe shall again grant the Assessor access to all Trust Lands for the purposes of establishing a new assessed market valuation based on the new uses or development of the property at that time. Once established, the Tribe shall pay the County 30% of 1% of the assessed market valuation for the following five years through the term of the Agreement.

7.5.2 The payments shall not include any additional state taxes or assessments for the water, schools or any other districts or projects which may be appended to the County's typical property bill. All payments are solely the County's funds and may be used for any purpose at the discretion of the County and shall be paid by the Tribe as long as the property remains in trust for the Term of this Agreement.

7.6 In addition to the payments described above, the Tribe shall pay to the County a fee in-lieu of the County transit occupancy tax in the amount of 9% of the rents collected on occupied hotel rooms and vacation rentals. This fee shall be paid on a quarterly basis to the County. If there is a dispute as to the assessment fee payments and supporting computations, the Tribe will provide the information/receipts to verify payment and the supporting basis for the computation. The payments shall be made for the Term of this Agreement unless the assessed property is removed from federal trust at an earlier date. Any disputes regarding the payment amount shall be subject to the dispute resolution provisions of this Agreement. The Tribe and County agree that should the County approve an increase or decrease in the transient occupancy tax, the Tribe will pay and apply the same equivalent in-lieu tax for its occupied hotel room and vacation rentals to the County.

7.7 All payments made pursuant to this Agreement shall be made payable to the County of Sonoma and sent to the Office of the County Administrator, County of Sonoma.

7.8 Use of any funds received by the County from the Tribe pursuant to this Agreement is subject to the sole discretion of the County Board of Supervisors.

VIII. COUNTY COVENANTS/COMMITMENT TO SUPPORT

8.1 In return for the commitments made by the Tribe in this Agreement, the County agrees to actively support the Tribe's efforts whether legislatively or through the federal administrative process to take into trust the lands listed in Exhibit B. The County agrees, at a minimum, to write a support letter to the authors /sponsors of any legislation that takes the lands listed in Exhibit B into trust. The County will also issue correspondence to the appropriate state and federal agencies supporting any applications to the federal government to take the lands listed in Exhibit B into trust for the benefit of the Tribe. The County further agrees not to challenge any administrative decision to place these lands listed in Exhibit B into federal trust for the benefit of the Tribe through either

administrative or judicial appeals and refrain from judicially challenging any legislation requiring land to be placed 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 projects proposed by the Tribe.

8.2 For lands described in Exhibit C, the Tribe hereby agrees that the uses of those properties will comply with the County General Plan and Zoning Ordinance. Based on this Agreement the County agrees not to oppose the Tribe's efforts whether legislatively or through the federal administrative process, to take up to 800 acres of these lands into federal trust for the benefit of the Tribe. In such an instance, the County also agrees not to issue any negative comments or correspondence concerning any application or legislation taking the above-described lands into federal trust for the benefit of the Tribe. Under the conditions of this section, the County further agrees not to challenge any administrative decision to place the above- described lands into federal trust for the benefit of the Tribe through either administrative or judicial appeals and refrain from judicially challenging any legislation requiring land to be placed 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 projects proposed by the Tribe.

IX. TERM

9.1 This Agreement shall be in full force and effect for twenty-two (22) years from the Effective Date.

9.2 Not later than one hundred eighty (180) prior days to the date of termination, the Parties shall meet, confer and renegotiate with regard to the potential extension or modification of this Agreement.

9.3 Any arbitration proceeding or issue subject to dispute procedures under Section XIV at the time of Termination shall remain in effect past the Term until finally resolved.

In addition, mitigation measures contained in Exhibit A or included in the Final EA or in an arbitrator's order shall remain in effect beyond the Term of the Agreement.

X. GENERAL PROVISIONS

10.1 No Third Party Beneficiaries. This Agreement is not intended to, and will not be construed to, confer a benefit or create any right on a third party, or the power or right to bring an action to enforce any of its terms.

10.2 Amendments. This Agreement may be amended only by written instrument duly signed and executed by the County and the Tribe.

10.3 Waiver. The waiver by either Party of any of its officers, agents or employees, or the failure of either Party or its officers, agents or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement, will not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or any terms, covenants or conditions of this Agreement, unless such waiver is expressly set forth in writing in a document signed and executed by the appropriate authority of the County and of the Tribe.

10.4 Severability. The provisions of this Agreement are severable, and the invalidity of any provision or portion of this Agreement shall not in and of itself affect the validity of any other provision or portion of this Agreement, and the remaining provisions of the Agreement shall remain in full force and effect. If any provisions of this Agreement were determined to be invalid or unenforceable, then the Parties agree to promptly use good faith efforts to amend this Agreement to reflect the original intent of the Parties in accordance with applicable law. If the Parties are unable to reach agreement, the Parties will resolve the dispute in accordance with the Dispute Resolution Sections of this Agreement. Notwithstanding the above, in the event that the intent of Sections 4.2, 4.2.1, 4.2.2, 4.3, 6.3, 7.2, or 7.5.1 could not be effectuated, the County commitments in Sections 8.1 and 8.2 would no longer be applicable.

10.5 Construction of Agreement. This Agreement shall be construed and enforced in accordance with the laws of the United States, and the State of California.

10.6 Force Majeure. In the event of a forced delay in performance by either the Tribe or the County due to cause beyond the reasonable control of that party, including epidemics, embargoes, war, acts of war (whether or not war declared), insurrections, riots, civil commotion, acts of God, acts or inaction by the other party its employees or agents, unusual delay in transportation, unavailability of materials, the time for performance shall be extended for the period of the forced delay.

10.7 Entire Agreement. This Agreement constitutes the entire agreement between the County and the Tribe and supersedes all prior negotiations, representations, or other agreements, whether written or oral.

10.8 No Presumption. In the event of a dispute between the Parties as to the language of this Agreement or the construction or meaning of any of its term, this Agreement will be deemed to have been drafted by the Parties in equal parts so that no presumption or inferences concerning its terms or interpretation may be construed against any Party to this Agreement.

10.9 Confidentiality. Other than reports prepared to comply with NEPA Guidelines, any information or documents obtained, directly or indirectly under this Agreement or preceding negotiations, shall be deemed confidential to the extent allowed under law and shall not be shared with any third party. The County shall promptly provide the Tribe notice of any Public Records Act request relate to this Agreement and afford the Tribe, within the time limits allowed under the Act, an opportunity to seek an injunction by the Court against any such disclosure.

10.10 Authority Over Tribal Activities. Nothing in this Agreement is intended to confer or expand the jurisdiction of any local, state or federal agency or other governmental

body, nor is this Agreement intended to infringe or otherwise usurp the authority of any regulatory body including local, state, federal or Tribal agencies that may have jurisdiction over or related to Tribal activities, development or projects. Further, nothing in this Agreement shall be construed to relieve the BIA's or Tribe's obligation to comply with NEPA as may be required a part of any trust application or any other Project requirement. The County acknowledges that to the extent required by applicable law, activities that normally require county permitting are exempt from such requirements when they take place on Trust Lands. The Tribe similarly acknowledges and agrees that its development projects located on fee lands located within the County's geographical boundaries shall conform to County permitting, taxation, and other regulatory requirements and laws.

10.11 Duplicate Originals. At least two sets of this Agreement shall be signed and exchanged by the Parties each of which shall be considered an original document.

10.12 Obligation on Related Entities. This Agreement binds the Parties and their departments, affiliates, agents, representatives, successors, contractors, officials and related entities which such Agreement shall also be reflected in a resolution of each Party's respective governing body approving the Agreement.

10.13 Tribal-County Meetings. The County and Tribe agree that members of the Tribal Council and Board of Supervisors shall meet at least once a year and as often as necessary for Tribal and County development consultation provided for hereunder and to discuss items of mutual interest, build and maintain a mutually-beneficial government-to-government relationship, and identify ways to work together to provide services and benefits to the Tribal community and Sonoma county residents.

10.14 Prior Agreement. Unless specifically addressed in this Agreement, nothing in this Agreement shall modify any of the rights or responsibilities of the Parties under their 1991 agreement, entitled a Stipulation for Entry of Judgment in *Scotts Valley Band of*

Pomo Indians of the Sugar Bowl Rancheria v. United States, Case No. C-86-3660 WWS
(N.D. Cal. 1991).

XI. NOTICES

11.1 Notices and service of process shall be sent to the contacts listed below or to such other person or address as shall be provided in writing by the party. Service of process in any judicial or arbitration proceeding is waived in favor of delivery of documents by Certified Mail – Return Receipt Requested to the following:

For the Tribe:

Tribal Chairperson
Lytton Rancheria of California
437 Aviation Blvd.
Santa Rosa, CA 95403
Tel: (707) 575-5917

With a copy simultaneously delivered to:

Lawrence R. Stidham
Counsel for the Tribe
Stidham Law Offices
210 5th Street
Ramona, CA 92065
Tel: (760) 788-4560

For the County:

Sonoma County Administrator
575 Administration Drive
Santa Rosa, CA 95403
Tel: (707) 565-2431

With a copy simultaneously delivered to:

County Counsel
575 Administration Drive, Room 105A
Santa Rosa, CA 95403
Tel: (707) 565-2421

XII. REPRESENTATIONS AND WARRANTIES

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

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

12.1.2 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.

12.1.3 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.

12.1.4 Enforceability. This Agreement constitutes the legal, valid and binding obligation of each Party, enforceable against each 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.

12.1.5 No Conflict. The approval, execution, delivery and performance of this Agreement does not conflict with any other agreement to which each Party is a party and does not violate or require any action which has not been taken under any law, statutes, rule, regulation, ordinance, general plan, specific plan or court order or decree applicable to such Party.

XIII. CEQA

13.1 The Tribe's Trust Land activities and the Parties' approving, executing and performing this Agreement, currently and in the future, are not activities that, within the

meaning of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq.*; (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. This Agreement does not commit the County to making any specific physical changes in the environment. If CEQA compliance will be required with respect to any activities related to this Agreement, the County shall comply with CEQA at that time.

13.2 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 change in the environment. This Agreement should be construed as primarily a government payment and funding mechanism that does not commit the County to make any specific physical changes in the environment.

13.3 Notwithstanding the above, if the County is sued for failure to comply with CEQA related to approval of this Agreement, the Tribe agrees to indemnify and defend the County, including its officers, agents and employees in any such third party actions. The County will vigorously defend any such actions and shall have the right to select its own counsel at local prevailing rates, at the expense of the Tribe but the Tribe shall have the right to review counsel fees and costs and to be informed as to the progress of the litigation.

XIV. DISPUTE RESOLUTION

14.1 Prior to pursuing any arbitration, each party shall, whenever possible, attempt to resolve any grievance, complaints or disputes that are brought to its attention by the other party. Each Party shall notify the other party in writing of any material dissatisfaction with the other party's performance at that party's address of record. Within ten (10) days

of receipt of such notice, unless the problem has been resolved, the Parties shall meet and confer in good faith to determine what remedial action is necessary.

14.2 If, after meeting and conferring in person, the Parties are unable to reach an informal resolution of the dispute they may proceed to arbitration. If the Parties are unable to agree upon an arbitrator, then each Party shall name one arbitrator and the two arbitrators shall select a third arbitrator who shall be a retired Superior Court or United States District Court Judge; provided however, if a Party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, then the arbitrator selected by the other Party shall conduct the arbitration. The arbitration shall be binding and conducted pursuant to the Commercial Rules of the American Arbitration Association. Each Party shall initially pay its own arbitration costs and expenses, but the arbitrator may in its discretion, include such costs and expenses, together with reasonable attorneys' fees, as part of the award to the prevailing Party.

14.3 Either Party may seek judicial enforcement of the arbitration decision. Such enforcement actions shall be brought in the United States District Court for the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court. If the United States District Court for the Northern District of California determines that it lacks jurisdiction, the Parties shall be entitled to file in the appropriate trial court for the State of California. The awards of any arbitration if brought in Federal Court shall be governed by the Federal Arbitration Act codified in Title 9 of the United States Code, except as the same may be changed or limited by the provisions of this Agreement.

14.4 The arbitrator and appropriate Court shall have the authority not only to make or confirm any order or decision of the arbitrator, but to issue all orders necessary, including, but not limited to: the issuance of temporary or permanent injunctions to prohibit the parties from engaging in conduct that violates the provision of this Agreement; specific performance; otherwise compelling the Parties to comply with the provisions of this Agreement; and/or requiring the Parties to pay over any income, or

profits. In the case of disputes regarding adequacy of mitigation or public benefits, it is anticipated that the arbitrator's award will consist of picking the last best offer of one of the Parties as provided for in Section 4.4.

14.5 Judicial remedies are specifically limited to the enforcement of a determination by an arbitrator pursuant to this Agreement as provided for in Section 14.4 above.

XV. TRIBAL WAIVER OF SOVEREIGN IMMUNITY

15.1 The Parties acknowledge that Lytton is a federally recognized Indian tribe and, as such, possesses sovereign immunity from suit. Nothing in this Agreement is or shall be deemed to be a waiver of the Tribe's sovereign immunity from suit, which immunity is expressly asserted, except that the Tribe expressly and irrevocably agrees to waive its immunity (and any related defenses) as against the County only and for the limited and sole purpose of compelling arbitration and of enforcing an arbitration decision rendered pursuant to the terms of and conditions of this Agreement. The waiver shall be evidenced, in part, by a resolution of the Tribal Council as provided in Exhibit D. The Tribe further agrees that exhaustion of administrative remedies, including before any Tribal Court, shall not be required prior to proceeding to arbitration or court action as described in Section XIV.

XVI. EXHIBITS.

16.1 Exhibits A, B, C, D, and E are attached and incorporated as if fully set forth in the Agreement.

XVII. REVIEW BY THE DEPARTMENT OF THE INTERIOR AND OTHER ACTIONS FOLLOWING EXECUTION

17.1 The Tribe agrees to submit this Agreement to the United States Department of the Interior ("DOI") for either: a) approval pursuant to 25 U.S.C. § 81; b) written response

that this Agreement does not require approval under 25 U.S.C. § 81; or c) a conditional approval of the Agreement pending the land going into trust.

17.2 The County, at its sole discretion, has the right to withdraw its support for the Agreement if it is not submitted to the Department of the Interior pursuant to this Section within sixty (60) days following the Effective Date.

17.3 The Tribe agrees to request and support the inclusion of language, in any proposed legislation taking land into trust on behalf of the Tribe, to both ratify this Agreement and state that this Agreement is not subject to the review or approval of the Secretary pursuant to 25 U.S.C. § 81 in order to be effective.

17.4 This Agreement shall be in full force and effect regardless of any review that might be required pursuant to 25 U.S.C. § 81 or any other law. If the Department of the Interior determines that portions of this Agreement violate 25 U.S.C. § 81 or are otherwise invalid, the severability provisions set forth in this Agreement shall govern. If this Agreement is ratified or approved by Congress pursuant to Section 17.3, the severability provisions set forth in this Agreement may not apply.

IN WITNESS WHEREOF, the Parties execute and enter into this Agreement with the intent to be bound thereby through their authorized representatives whose signatures are affixed below.

LYTTON RANCHERIA OF CALIFORNIA

Date: 3/9/15

Margie Mejia
Margie Mejia, Tribal Chairperson

APPROVED AS TO FORM BY
LEGAL COUNSEL FOR THE TRIBE

Date: 3/10/15

By: Larry Stidham
Larry Stidham, Esq.

COUNTY OF SONOMA

Date: 3/10/15


Susan Gorin, Chair, Board of Supervisors

APPROVED AS TO FORM BY
COUNTY COUNSEL

Date: 3/12/15

By: 
Jeff Brax, Chief Deputy
Sonoma County Counsel

Exhibit A
Development Project Mitigation Measures

Pursuant to the Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria of California regarding Fee-to-Trust Lands (Agreement), the Parties have agreed that the responsibilities for the following mitigation measures and best management practices are divided between the Tribe, the County and those being addressed by the Town of Windsor (Town) in accordance with a separate agreement between the Town and the Tribe. Any disputes regarding compliance with these measures and practices shall be subject to dispute resolution as set forth in the Agreement. (See, Sections 4.4, 4.5, and XIV).

Responsibilities of the County

- A. Mitigation of impacts to the Riverfront Regional Park and other County parks.
- B. Direct and cumulative impacts to County roads.
- C. Native oak trees permanently removed as a result of project construction will be mitigated through re-planting of removed trees at a 1:1 ratio, as detailed herein, or alternatively, preserving and equivalent area of oak woodland.
 - Replacement oak trees will be planted on Tribally-owned land and/or other parcels in the vicinity of the project site.
 - Oak trees may be established by planting in replacement areas trees salvaged from construction impact zones, 15 gallon-sized trees, 24-inch boxes, 36-inch boxes, saplings, propagated seedlings, acorns or any combination of these sizes or stages.
 - To ensure the success of planted oak trees, the trees shall be monitored annually by a qualified biologist for a period of five years, with a survival target goal of 60 percent by the third year. If it is determined after the third year of monitoring that the 60 percent survival rate is not being met, additional trees shall be planted to meet an 80 percent survival goal near the end of five years.

Responsibilities of the Town of Windsor

- A. The Tribe shall pay a proportionate share for necessary intersection improvements at the intersection of Windsor River Road and Bell Road (Final EA Intersection #6). The improvements shall include, but not limited to, installation of a traffic signal if and when the Town of Windsor determines a signal is warranted.

- B. The Tribe shall pay a proportionate share for intersection improvements at the intersection of Old Redwood Highway and the Northbound U.S. 101 Off- Ramp at Lakewood Drive (Final EA Intersection #9). Improvements would include the construction of an additional southbound left turn lane, an additional southbound right turn lane, and restriping the northbound approach to include a shared through-left lane. The project's equitable share of any planned improvements at this intersection shall be calculated based on the methodology set forth in Appendix "B" of the California Department of Transportation "Guide for the Preparation of Traffic Impact Studies" and determined in consultation with Sonoma County, Town of Windsor and the Tribe.

Responsibilities of the Tribe

1. Land Resources

- a. All structures shall meet design standards equivalent to the California Building Code (CBC) requirements for the site, including the seismic design criteria of the most recent edition of the Uniform Building Code (UBC) for Seismic Zone 4.
- b. Protective coatings for buried steel facilities shall be used for construction on corrosive soil.
- c. All site preparation and earthwork construction in the field shall be performed by licensed contractors.
- d. Suitability of earth and construction materials shall be determined by a licensed professional employing geotechnical/soils laboratory testing standards according to standard engineering practice.
- e. All grading plans, subsurface investigations, and slope stability and seismic design calculations as well as all foundation, paving, and building design parameters shall be produced under the supervision of appropriate licensed professionals.
- f. Construction on expansive soil shall be mitigated by using specialized grading techniques or designing structural foundations to withstand expansion pressures.
- g. The effects of soil movement shall be mitigated by strengthening the soils during grading and/or designing and constructing satisfactory foundation support.
- h. Prior to finalization of the grading and development plans for the property, design-level geotechnical specifications addressing the specific grading and development plans shall be developed. The specifications shall include, but not be limited to, the following:
 - Site, building and facility-specific grading recommendations regarding site preparation, clearing and grubbing.

- Select grading procedures, remedial grading procedures, material suitability and compaction criteria.
- Cut and fill slope stability analyses, recommended slope configurations and inclinations.
- Evaluation of soil expansion and corrosion potential.
- Building-specific foundation design parameters.
- Site-specific seismic design parameters.
- Lateral earth pressure parameters for retaining wall design, if any.
- Pavement design specifications.

2. **Water Resources**

- a. Areas outside of buildings and roads shall be kept as permeable surfaces to the extent practicable; either as vegetation or high infiltration cover, such as mulch, gravel, or turf block. Pedestrian pathways shall use a permeable surface where possible, such as crushed aggregate or stone with sufficient permeable joints (areas between stone or brick if used).
- b. Existing native vegetation shall be retained where possible.
- c. Roof down spouts shall be directed to splash blocks and not to underground stormdrain systems.
- d. Runoff from rooftops, and other impervious areas shall be directed to vegetated areas to help treat and infiltrate stormwater prior to leaving the site.
- e. Runoff from roadways shall filter through rock-lined swales and bio-swales.
- f. All storm drains shall be equipped with silt and grease traps to remove oils, debris, and other pollutants. Storm drain inlets shall also be labeled “No Dumping – Drains to Streams and Rivers.”
- g. Permanent energy dissipaters shall be included for drainage outlets.
- h. Rock rip-rap energy dissipaters shall be installed at the point of release of concentrated flow.
- i. High water-demand plants shall be minimized in landscaping plans. Native and drought-tolerant plant species (trees, shrubs, and ground cover) landscaping shall be emphasized.
- j. Water-efficient fixtures and appliances shall be installed in residences and community facilities.
- k. Water conservation standards at least equivalent to Sonoma County design standards shall be implemented in the residential and community buildings.
- l. Implementation of check dams, rain gardens, and bio-swales shall be used to reduce stormwater velocities as recommended in the preliminary drainage plan in Appendix A of the Final EA.

- m. The Tribe shall obtain a National Pollutant Discharge Elimination System permit (NPDES General Permit) from the USEPA for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). The Tribe shall prepare, implement, and maintain a Storm Water Pollution and Prevention Plan (SWPPP) throughout the construction phase of the development, consistent with General Permit requirements. The SWPPP shall detail the BMPs to be implemented during construction and post-construction operation of the Proposed Project. The BMPs shall include, but are not limited to, the following:
- Straw wattle placement on cut and fill slopes.
 - Straw wattle check dam installation within drainage swales.
 - Covering disturbed areas with plastic, hydro-seed applications, or straw.
 - Construction entrance installation to reduce off-site sediment transport.
 - Revegetation following construction activities.
- n. For all alternatives, the nested monitoring well constructed for the hydrogeologic investigation shall be maintained and used for groundwater- level monitoring.
- o. If Alternative B is chosen, the Tribe shall obtain a NPDES permit for surface discharge of treated effluent. An energy dissipater that does not result in any fill of waters of the U.S. shall be installed at the effluent discharge outfall.

If Alternative B or C is chosen:

- p. The Tribe shall construct a tertiary wastewater treatment and reclamation plant facility (WTRF) as described in Appendix B of the Final EA. Salt-based chemicals shall not be used whenever feasible in the wastewater treatment process. Water softeners that dispose of salt into the wastewater system shall be prohibited.
- q. Wastewater effluent discharge shall be reduced or eliminated, if possible, during the issuance of an Urban and Small Streams Flood Advisory by the National Weather Service for the receiving waters into which project effluent is discharged.
- r. Community education programming shall be conducted to educate residents of the importance of reducing chemical product use and disposal in the home and minimizing release of medicines and other contaminants into wastewater.
- s. All effluent discharge basins shall maintain a minimum vertical distance of two feet freeboard between the high water level and pond levee crowns. Storage basins shall be gated to restrict access. All basins shall be equipped with draining systems and level monitors.

- t. If used, spray drift from the spray disposal irrigation areas shall be monitored daily during operation by qualified personnel. Spray drift shall not be allowed to migrate outside of the irrigation area. Spray irrigation shall cease when winds exceed 30 miles per hour.
- u. The Tribe shall adopt standards equivalent to the landscape irrigation standards in the State Water Resources Control Board Recycled Water Policy (as referenced in Resolution No. 2009-0011).
- v. A wastewater contingency plan shall be developed that ensures untreated wastewater is not discharged to the environment in the event of WTRF failure or malfunction.
- w. Sodium hypochlorite, caustic soda and/or citric acid shall be stored in the chemical room of the WTRF. The storage and metering facilities shall be located inside a chemical spill containment area, sized to contain 150 percent of the storage volume in case of an unintentional release.
- x. The sodium hypochlorite shall be stored in a 55-gallon drum and the citric acid shall be stored as dry material and then in a 50-gallon mixing tank when needed.
- y. The WTRF shall incorporate an active odor control system, consisting of a packaged biofilter with an active carbon absorption unit.
- z. All treated effluent storage dimensions have been calculated to hold 100-year rainfall event precipitation amounts.
- aa. Disposal of treated wastewater to irrigation areas shall be adjusted based on weather conditions in order to prevent surface runoff.
- bb. Potential groundwater impacts from irrigation and effluent storage shall be minimized through treatment of effluent through nitrogen and salinity reduction processes.
- cc. Operation and maintenance of the wastewater utility from house service laterals, through the wastewater and effluent system, to treatment and disposal shall be by the Tribe utilizing contract services. Individual residents will have no responsibility regarding operation and maintenance of any aspect of the wastewater treatment and conveyance systems. The residents' sole responsibility shall be to follow Tribal guidance on what should and should not be flushed down sinks and toilets. Community education shall be promoted to reduce needless contaminants to wastewater.
- dd. The effluent storage basins and irrigation areas shall be located and designed so that they are well-drained and readily accessible.
- ee. Implementation of the following measures shall be incorporated during design and operation of the wastewater and effluent system to minimize chances of system failures:
 - Solvent welded plastic house services;

- Above grade cleanouts;
- Dual (redundant) discharge pumps;
- High water alarms;
- Adherence to recommended septic tank pump-out frequency;
- Maintaining records of pumping, inspections, and other maintenance activities;
- Flushing of solvent, paint, paper towels, diapers, feminine hygiene products, cigarette butts, pesticides, and fertilizer shall be discouraged by recurring outreach notices to the residents. The frequency of the noticing shall be based on the results of ongoing system inspections.

3. Air Quality

- a. Construction vehicles, delivery, and commercial vehicles shall not idle for more than five minutes.
- b. The Tribe shall designate an onsite Air Quality Construction BMP Manager (AQCBM), who shall be responsible for directing compliance with BMPs for the project construction heavy-duty equipment.
- c. Heavy, diesel-powered equipment idling shall be limited to two minutes.
- d. The Tribe shall use heavy duty construction equipment equipped with a diesel particulate matter filter.
- e. The Tribe shall fully fund a program to encourage and facilitate the use of 'carpools' by construction workers, including providing an off-site location for construction workers to park their vehicles and meet to carpool.
- f. If possible, the Tribe shall use heavy duty construction equipment, which meets CARB's most recent certification standards.
- g. The Tribe shall provide a storage area for recyclables and green waste during construction.
- h. The Tribe shall recycle 50 percent or more of construction waste.
- i. The Tribe shall use environmentally preferable materials to the extent practical for construction of facilities. Buildings shall be designed to meet LEED or equivalent certification standards, except with respect to indoor smoking allowed in certain restricted areas.
- j. The AQCBM shall be responsible for directing compliance with the following BMPs for fugitive dust control practices during project construction:
 - For any earth moving which is more than 100 feet from all property lines, conduct watering as necessary to prevent visible dust emissions from exceeding 100 feet in length in any direction.
 - For all disturbed surface areas apply dust suppression in a sufficient quantity and frequency to maintain a stabilized surface; any areas,

which cannot be stabilized, as evidenced by wind driven dust, must have an application of water at least twice per day to at least 80 percent of the unstabilized area.

- Establish a vegetative ground cover as soon as feasible after active operations have ceased.
- For all unpaved roads either water all roads used for any vehicular traffic as often as necessary to minimize dust; or apply chemical stabilizer to all unpaved road surfaces in sufficient quantity and frequency to maintain a stabilized surface.
- Provide track-out control to minimize tracking of soil onto neighboring roadways.
- For all off site haul vehicles, cover loads.
- Grading activities shall not occur when winds exceed 25 miles per hour(mph).
- Speed on unpaved roads shall be limited to 15 mph.

4. Climate Change

- a. Buildings shall be sited to take advantage of aspect, shade, prevailing winds, and sun screens to reduce energy use.
- b. Buildings shall be designed to include efficient lighting and lighting control systems.
- c. Energy efficient heating and cooling systems as well as appliances shall be installed in residences and community facilities.
- d. Solar or wind power systems shall be utilized where feasible.
- e. The Tribe shall use solar hot water heaters where possible for all project components.
- f. The Tribe shall seal all residential and other buildings heating, ventilation, and air conditioning ducts.
- g. The Tribe shall purchase 1,716.44 metric tons of carbon credits from a carbon credit exchange or trading entity.

5. Biological Resources

A. Waters of the U.S.

- a. Mixed riparian habitat, wetlands and drainages shall be avoided to the maximum extent feasible.
- b. The Tribe shall establish a 50-foot setback, where possible, around each potentially jurisdictional wetland features within the project development and no development shall occur within the setback areas.
- c. Prior to the onset of construction activities, these wetland avoidance setbacks shall be established around jurisdictional wetland features using high-visibility fencing. A qualified biologist shall be present during construction activities that ensue within the vicinity of the wetland

avoidance buffer zones. The qualified biologist shall monitor during construction to make sure that the fencing remains intact and that construction activities do not penetrate the wetland avoidance buffer zones. When project development is completed, the high-visibility fencing may be removed.

- d. Temporary fencing shall be installed around riparian habitats. Fencing shall be in place prior to the initiation of any construction activities and no encroachment into the fenced areas shall be permitted. Fencing shall remain in place until all construction activities have ceased.
- e. Any proposed construction activities that would occur within the vicinity 50 feet of jurisdictional waters of the U.S. shall be conducted during the dry season (i.e., April 15 through October 15) to further reduce sedimentation within the watershed.
- f. If complete avoidance of waters of the U.S. is not possible and impacts to wetland features cannot be avoided, authorization from the USACE is required. A Section 404 CWA permit shall be obtained from the USACE and mitigation ratios defined within the permit conditions shall be implemented. Typical Nationwide Permits (NWP) mitigation occurs at a ratio of 1:1 acres created versus impacted and 2:1 acres preserved versus impacted. Individual permit conditions may vary. A CWA Section 401 Water Quality Certification permit from the U.S. EPA would also be required.

B. Native Trees

- a. All identified heritage trees shall be preserved to the maximum extent feasible.
- b. Native trees with greater than nine inches diameter at breast height (DBH) within the Sonoma County valley oak habitat (VOH) Combining District shall be preserved to the maximum extent feasible.
- c. Native trees with greater than nine inches DBH within mixed riparian habitats shall be preserved to the maximum extent feasible.
- d. Trees of notable size (i.e., heritage trees exceeding 33 inches diameter at breast height) shall be preserved to the greatest extent feasible.
- e. Impacts to valley oak trees within the Valley Oak Habitat Combining District shall be avoided to the maximum extent feasible.
- f. Protection of tree crowns and root zones shall be required for all trees planned for retention in the vicinity of the construction footprint.

C. Special Status Animals

- a. The remaining aquatic surveys for the California Tiger Salamander (CTS) and California Red-Legged Frog (CRLF) are currently being conducted within the stock pond located on parcel 066-050-047. If

either CTS or CRLF is found, facilities proposed in the area upland of the pond shall be restricted or shall require additional mitigation.

D. Special-Status Plants

- a. The remaining floristic surveys for Sonoma sunshine, Sebastopol meadowfoam, Burke's goldfields, and many-flowered navarretia (Final EA Section 4.1.4; Attachment E to Appendix E) shall be conducted within the required areas of the project site in accordance with the Santa Rosa Plain Conservation Strategy protocol prior to groundbreaking on those parcels.
- b. If the protocol-level floristic survey results are positive, then formal consultation with USFWS must be initiated. Upon consultation, an appropriate course of action shall be established.
- c. Prior to the onset of construction activities, an avoidance plan must be formulated, submitted, and approved by the USFWS. It is likely entail the following basic principles:
 - Prior to the onset of construction activities the areas where the plants occur shall be delineated with avoidance buffers via high visibility fencing. The avoidance buffers may be 50 feet in width, unless otherwise specified by USFWS.
 - A qualified botanist shall be present during construction activities that ensue within the vicinity of the special-status plant avoidance buffer zones and monitored to ensure that the fencing remains intact and that construction activities do not penetrate the special-status plant avoidance buffer zones.
 - When project development is completed, the high-visibility fencing may be removed. However, future development shall not occur within the setback buffer areas.
- d. If complete avoidance of the Santa Rosa Plain special-status plants is not feasible, the Tribe shall mitigate for impacts to the plants according to the mitigation ratios in Table 5-1 of the Final EA, which are outlined in the *Programmatic Consultation for USACE 404 Permitted Projects that May Affect Four Endangered Plant Species on the Santa Rosa Plain, California* (File Number 223420N) (USFWS, 2007).

E. Nesting Migratory Birds

- a. If any construction activities are scheduled to occur during the nesting season (February 15 – August 31), pre-construction bird surveys shall be conducted. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist, throughout all areas of suitable trees and habitat that are within 500 feet of any proposed construction activity, including oak trees slated for removal. The surveys shall occur no more than 14 days prior to the scheduled onset of construction activities. If construction is delayed or halted for more than

14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the pre- construction surveys no additional surveys or mitigation measures are required.

- b. If migratory nesting bird species are observed within 500 feet of the construction area during the surveys, appropriate avoidance setbacks shall be established by the qualified biologist. The size and scale of nesting bird avoidance setbacks is dependent upon the species of nesting bird observed and the habitat that the nest occurs. Avoidance setbacks shall be established around all active nest locations via stakes and high visibility fencing. The nesting bird setbacks shall be completely avoided during the duration of construction activities and the fencing must remain intact. The qualified biologist shall also determine an appropriate monitoring plan and shall decide if construction monitoring is necessary during the duration of construction activities. Again, monitoring requirements are dependent upon the species of nesting birds observed, the habitat in which the nests are contained, and the number of nests observed. The setback fencing may be removed when the qualified biologist confirms that the nest(s) are no longer occupied and all young have fledged.
- c. If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.

6. Cultural Resources

- a. Should any buried cultural materials (archaeological or paleontological) be uncovered during ground-disturbing project activities, such activities shall cease within 100 feet of the find. Prehistoric archaeological indicators include: obsidian or chert flakedstone tools and waste flakes (debitage) resulting from the toolmaking process; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles); and locally darkened midden soils containing any of the previously listed items plus fragments of faunal bone or shell, fire-affected rocks, and/or unusual amounts of charcoal. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structural and feature remnants such as building foundations, privy pits, wells, irrigation ditches, and refuse dumps; and old trails. The Lytton Rancheria shall be notified of the discovery and a professional archeologist (or paleontologist, as appropriate) shall be retained to evaluate the find and recommend appropriate treatment measures in consultation with the Lytton Rancheria. Project-related activities shall not resume within 100 feet of the find until all mitigation measures have been approved and completed.
- b. If suspected human remains are encountered, work shall halt in the vicinity and the Sonoma County Coroner shall be notified immediately. At the same time, the BIA and a qualified archaeologist shall be

contacted to evaluate the find. If human remains are determined to be of Native American origin, the Coroner must notify the NAHC within 24 hours of this identification. Construction activities shall not resume within 100 feet of the find until the NAHC-designated Most Likely Descendant (MLD) and the Tribe approves and implements a strategy for the appropriate disposition of the remains.

- c. Should paleontological resources be unearthed, a paleontological resource impact mitigation plan (PRIMP) shall be created prior to further earthmoving in the vicinity of the find. The PRIMP shall detail the procedures for collecting and preserving the discovered fossils. Any fossils discovered during construction shall be accessioned in an accredited scientific institution for future study.

7. Public Services

- a. Structural fire protection shall be provided through compliance with Fire Code requirements for commercial structures of this size. The Tribe shall ensure that appropriate water supply and pressure is available for emergency fire flows.
- b. The community center shall be equipped with an early detection system that ensures an initial response to any fire alarm (automatic, local or report). This would rely on automatic sprinkler systems in the occupied areas and smoke detection, along with automatic sprinkler systems in the areas of the facility that are normally unoccupied, such as storerooms and mechanical areas.
- c. All structures shall be constructed in accordance with design standards equivalent to all Building Codes, as adopted or supplemented by Sonoma County.
- d. To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.
- e. During construction, staging areas, welding areas, or areas slated for development using spark-producing equipment would be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor would keep these areas clear of combustible materials in order to maintain a firebreak.
- f. Fire extinguishers shall be maintained onsite and inspected on a regular basis.
- g. An evacuation plan shall be developed for the proposed development in the event of a fire emergency.
- h. Fire hydrants shall be spaced in accordance current fire codes.

- i. Fire alarm and suppression systems installed shall conform to design standards equivalent to the requirements of the California Building and Fire Codes as amended and adopted by Sonoma County.
- j. On-site development shall be generally consistent with Sonoma County Fire Safe Standards Sections 13-54 through 13-59.
- k. A vegetation management plan shall be prepared by a qualified professional prior to occupation of any residences. The plan shall include, at a minimum, defensible space zones, identification of vegetation types, replacement of non-native flammable vegetation with fire resistive vegetation, and a maintenance program for all vegetation. The Tribe shall approve the plan and pass a resolution that requires that it will be implemented and maintained. Prior to approving the plan, the Tribe shall submit it to the County Fire Chief for review.
- l. The Tribe shall arrange and coordinate with local law enforcement and emergency services if needed to assist with large events held at the proposed community center.
- m. If Alternative A is selected, the Tribe and the Town of Windsor shall enter into a mutually agreeable binding service contract for the provision of water and sewer service to the project.

8. Noise

- a. To the extent feasible, houses shall be designed to locate outdoor spaces away from the sound path of travel in order to minimize noise levels for existing offsite houses in the vicinity of the project site.
- b. Construction activities shall be limited to normal daytime hours (7 a.m. to 7 p.m.), Monday through Saturday, with no work performed on Sundays or federal holidays.
- c. The Tribe shall ensure that construction equipment used at the project site shall be equipped with the best available noise reduction technology feasible, including the use of mufflers on motorized equipment according to the manufacturer's specifications.
- d. All existing residences within 200 feet of the project site shall be notified at least one day in advance of construction that is proposed to take place within 300 feet of the residence.
- e. Stationary noise-producing equipment such as compressors and generators shall be placed as far as practical from homes, and shielding shall be provided between any such equipment and homes when it is necessary to operate the equipment closer than 200 feet from a home.
- f. On-site water reclamation facility equipment shall be shielded or enclosed.

9. Hazardous Materials

- a. Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.
- b. A spill prevention and countermeasure plan shall be developed which shall identify proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite, as well as the proper procedures for cleaning up and reporting of any spills.
- c. Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce potential for mechanical breakdowns leading to a spill of materials into water bodies. Maintenance and fueling shall be conducted in an area that meets the criteria set forth in the spill prevention plan.
- d. Before development begins on the Property or the parcels are taken into trust, all items of non-hazardous debris shall be removed from the site and properly disposed of or recycled at an appropriate off-site facility.
- e. A hazardous materials storage and disposal plan shall be prepared that contains an inventory of hazardous materials stored and used on site, maintains an emergency response plan for a release and disposal of unused hazardous materials, and provides provisions specifying employee training in safety and emergency response procedures.

10 Visual Resources

- a. Signage for all streets and community facilities shall be subtly incorporated into the landscape.
- b. Lighting would only occur at street intersections and parking areas for the community facilities. Lighting shall consist of pole mounted lights limited to 18 feet and shall have cut-off lenses.

11. Green Building

- a. The Tribe shall incorporate the "Build it Green" 2005 Green Building Guidelines for New Home Construction along with the Leadership in Energy and Environmental Design (LEED) for Homes criteria for all the residential units on the project site (U.S. Green Building Council, 2010). In addition, the Tribe shall obtain LEED certification for the community center and retreat buildings.
- b. Roadways shall be generally designed as narrow country lanes with surface runoff diverted into vegetated bioswales.

- c. Individual homes shall have limited personal planting areas with a portion of the watering needs satisfied from captured rainwater or reclaimed water.
- d. Indoor plumbing shall use the highest efficiency fixtures and fittings available.
- e. All homes shall be designed for efficient use of energy and natural resources and shall be sized below the median standard based on the LEED for Homes rating system. Each plan shall be oriented to maximize access to solar energy and natural daylight. Operable windows shall be placed to provide efficient natural ventilation, taking advantage of prevailing breezes.
- f. All appliances and heating, ventilation, and air conditioning (HVAC) equipment shall be Energy Star Certified for optimal performance.
- g. During construction, all waste material shall be separated and sorted into individual bins for recycling.
- h. Upon completion, the community center shall have trash enclosures for separation of recyclable materials and newspapers.
- i. The communal buildings shall meet all Americans with Disabilities Act (ADA) accessibility requirements. Pathways shall meet required slopes and roadway crossings would include textured paving and indicators for the visually impaired.
- j. At least 75 percent of the residences built shall be single story to minimize visual effects.
- k. The single story retreat building shall be located on the site of an existing two- story home.
- l. Building envelopes shall be designed to maximize performance of HVAC, lighting, and other energy systems. Equipment and appliances shall meet or exceed California state, Title 24 energy requirements.
- m. HVAC equipment shall have no chlorofluorocarbon (CFC) refrigerants.
- n. To the extent possible, building materials with recycled content shall be specified for use during construction.
- o. Building and landscape elements shall be designed to give preference to materials that are produced regionally or within 500 miles of the project.
- p. Wood materials and products used in construction shall be specified to be Forest Stewardship Council (FSC) certified from suppliers who practice responsible and sustainable forest management.
- q. During construction, on-site absorptive materials shall be protected from moisture damage.

- r. All paints, coatings, adhesives and sealants used on the interiors of buildings shall have a low Volatile Organic Compound (VOC) limits to reduce odor and harmful indoor air contaminants.
- s. Carpets, cabinets, and other interior finishes shall be selected, in part, on minimizing their potential to off-gas or adversely affect indoor air quality.

Additional Conditions Tribe Agrees to Follow

The Tribe agrees to follow the following additional conditions submitted by the County. Should there be any dispute regarding the Tribe's compliance with such conditions, the parties agree to meet and confer to resolve such dispute. In the event the Tribe decides to build its own Wastewater Treatment Facility, items i-ix hereunder shall be subject to the provisions of Sections 4.4, 4.5, and XIV, but only to the extent such items have not then been included in a written agreement between the Town of Windsor and the Tribe.

Water Resources

- i. Before constructing the project, the Tribe shall submit to the County for its review and comment a final Grading and Drainage Plan set, including an Erosion Control Plan, that shows the location, number, size, dimensions, depth, and other details of proposed check dams, rain gardens, bio-swales, and other BMPs. The Tribe shall incorporate all feasible County comments and suggestions.
- ii. Wastewater shall be treated on-site to tertiary recycled water standards described in Chapter 3, Division 4, Title 22, California Code of Regulations, Section 60304, et seq. (Title 22). Treatment shall be provided by a flow equalized, nitrification/denitrification, MBR process, followed by UV disinfection.
- iii. All effluent discharge basins shall be lined with 60 mil high density polyethylene (HDPE) liner above a clay foundation constructed in accordance with applicable regulations.
- iv. Spray irrigation may be used only if drip, aerosol, and similar measures are infeasible. Spray irrigation shall be set back at least 100 feet from all areas of public access, including public roads and sidewalks and non-Tribal residences.
- v. The Tribe shall employ WRTF chief and shift operators in compliance with certificate and all other Title 22 requirements.
- vi. The Tribe shall maintain equipment that automatically shuts off treated wastewater used for irrigation if a significant leak occurs in the irrigation system equipment.

- vii. The Tribe shall notify the County within 24 hours of notifying the EPA of any unlawful discharge of wastewater effluent.
- viii. The Tribe shall shut down the WRTF in the event of a significant leak or discharge of wastewater effluent, and not resume operations until the leak or cause of discharge is corrected.
- ix. The Tribe shall prepare, submit to the County for review, and implement a 10- year plan every 10 years for operation, maintenance, and repair of the WTRF, including depreciation of equipment, expected replacement times for equipment components, and the financial reserves necessary to meet operational issues.
- x. The Tribe agrees to contact and meet and confer with the County before deciding to apply for an NPDES permit for the discharge of treated wastewater. The Parties will make good-faith efforts to resolve any concerns regarding the Tribe's wastewater operations. Nothing herein shall be read to limit any rights or remedies with regard to an NPDES permit application.

If Alternative B or C is chosen:

- xi. If arsenic-containing wastes and water treatment residuals meet the State of California's definition of hazardous waste, then they shall be manifested and disposed of in accordance with California law as hazardous waste.
- xii. If the wastes and residuals do not meet California's definition of hazardous waste (including the California toxic leaching test: Toxicity Characteristic Leaching Procedure, SW-846 Method 1311), the wastes and residuals shall be dried such that the thickened solids may be disposed of in the regional landfill.

Air Quality

- i. Remove any dust or mud tracked on to public roads daily using wet power vacuum sweepers.
- ii. Post a publicly visible sign with the name and telephone number of the person to contact regarding dust complaints. That person shall respond to complaints and take corrective actions within 48 hours.

Climate Change

- i. All refuse, solid waste, recycling and construction and demolition debris shall be collected by Windsor Refuse and Recycling for disposal and/or processing at County-owned solid waste facilities. Residents shall be provided with three roll out bins for garbage, organic wastes, and recyclables. The Tribe shall pay Windsor Refuse and Recycling for such collections and disposal services in accordance with the rates authorized in the County-approved franchise agreement.

- ii. The Tribe may, as an alternative to purchasing carbon credits, fund project(s) in Sonoma County that offset 1,716.44 metric tons of carbon. The County has a wide range of identified GHG mitigation projects, including energy conservation, renewable energy, cogeneration, bikeways and riparian restoration projects.

Public Services

- i. Structural fire protection shall be provided through compliance with California Fire Code requirements, as adopted or supplemented by Sonoma County, for commercial structures of this size.
- ii. The community center shall be equipped with a manual, automatic, or manual and automatic fire alarm system and fire sprinkler system installed in accordance with the provisions of the California Fire code as adopted and amended by the Sonoma County Code.
- iii. Fire hydrants shall be spaced in accordance with the provisions of Appendix C of the California Fire Code as adopted and amended by Sonoma County.

Noise

- i. Construction activities shall be limited to normal daytime hours (7 a.m. to 7 p.m.), Monday through Saturday, with no work performed on Sundays or federal holidays.
- ii. The Tribe shall not allow amplified music, WRTF equipment, or other operational noise sources to exceed the noise level performance standards in Table 3-17 of the Final EA at any non-Tribal residence.
- iii. A publicly visible sign shall be posted with the telephone number and person to contact regarding noise complaints. That person shall respond and take corrective actions within 48 hours.

Visual Resources

- i. To reduce visibility of the project from public viewpoints, the Tribe shall preserve existing native trees to the maximum extent feasible and plant additional native oak trees. All structures shall be setback 200-feet from the centerline of Windsor River Road or be substantially screened with existing topography and vegetation such that Windsor River Road retains its scenic and rural character. The Tribe shall screen the residential units proposed for the APN 066-300-017 and the northern portion of APN 066-300-031 such that the structures are not visible from Windsor River Road.
- ii. Residential units and other structures shall substantially conform to the materials, color, size, height, and lighting shown in the Final EA and reviewed with County staff.

EXHIBIT B

Trust Parcels

Residential Project Parcel Numbers

066-050-040	066-191-021
066-050-047	066-191-022
066-191-016	066-300-017
066-191-017	066-300-023
066-191-018	066-300-028
066-191-019	066-300-031
066-191-020	066-300-033

Urban Growth Boundary Parcel Numbers

066-040-001
066-040-008
066-050-040
066-050-047
066-191-007

Potential Winery and Resort Parcel Numbers

[066-200-015]- now divided into:

066-200-034

066-200-035

066-290-027
066-290-041
066-290-055
066-290-056

Remainder Parcel Numbers

066-191-044	066-290-008
066-191-001	066-290-021
066-191-002	066-290-029
066-200-017	066-300-038
066-200-020	066-300-039

Exhibit C

Potential Additional Lands for the Unincorporated Area Around the Town of Windsor

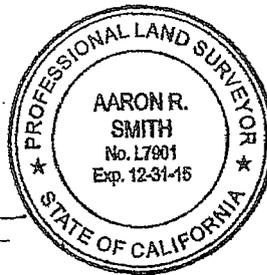
Beginning at the centerline of Eastside Road in the unincorporated area of the County of Sonoma, State of California with the extension of the northerly line of Assessor's Parcel Number 066-300-062 and 066-300-066, Lands of Jorna Investments LLC as described in Document Number 2015-006456, Sonoma County Records; thence easterly and southerly along the northerly line of said lands to the northwesterly corner of Assessor's Parcel Number 066-300-068, Lands of Jorna Investments LLC as described in Document Number 2015-006022, Sonoma County Records; thence easterly along said lands to the northwesterly corner of Assessor's Parcel Number 066-300-058, Lands of Emery Andrew Mc Guire and Katherine Mc Guire, trustees or their successors in trust of the McGuire Family Trust as said lands are described in Document Number 2005-164017, Sonoma County Records; thence easterly and along the northerly line of said lands, to the northwesterly corner of Assessor's Parcel Number 066-040-001, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2011-051391, Sonoma County Records; thence easterly and along said northerly line to the northwesterly corner of Assessor's Parcel Number 066-040-008, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2011-042026, Sonoma County Records; thence easterly and along said northerly line to the northeasterly corner of said lands; thence southerly and along said easterly line to the southeasterly corner of said lands; thence westerly and along said southerly line of said lands to the northeasterly corner of Assessor's Parcel Number 066-050-047, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2010-048484, Sonoma County Records; thence southerly and along said easterly line of said lands and its extension to the centerline of Windsor River Road; thence easterly and along said centerline of said road, to the extension of the easterly line of Assessor's Parcel Number 066-191-025, Lands of Esther Mae Caster, Leland L. Caster, and Drew D. Caster as to each a 1/3 interest in said property, described in Document Number 3110 Official Records, page 732, Sonoma County Records, with the centerline of said road; thence southerly and along said extension and easterly line of said lands, to the northeasterly corner of Assessor's Parcel Number 066-191-026, Lands of Daniel E. Rebich and Josephine Rebich, as Trustees of the Daniel E. Rebich and Josephine Rebich Revocable Intervivos Trust as said lands are described in Document Number 1991-0044501, Sonoma County Records; thence southerly and along said easterly line to the southeasterly corner of said lands also being on the northerly line of Assessor's Parcel Number 066-191-007, Lands of Lytton Rancheria of California, a Tribal Government as described in Document Number 2010-114867, Sonoma County Records; thence easterly and along said northerly line and its extension to the centerline of Starr Road; thence southerly and westerly along said centerline of Starr Road to the westerly extension of Assessor's Parcel Number 066-200-035, Lands of Lytton Rancheria

of California, a Tribal Government as described in Document Number 2012-061684, Sonoma County Records; thence continuing westerly along said centerline of Starr Road, also being the southerly border of Assessor's Parcel Number 066-200-009, to the angle point in said Starr Road, which said roads then heads southerly; thence north to the southerly line of Assessor's Parcel Number 066-200-009, Lands of Robert E. Hopkins and Toni Turner Hopkins, Trustees of the Hopkins Family Trust, Dated June 23, 1992 as said lands are described in Document Number 2006-102136, Sonoma County Records; thence westerly and continuing along said southerly line of said lands, to the southwesterly corner of said lands, also being the southeasterly corner of Assessor's Parcel Number 066-230-036, Lands of Robert E. Hopkins and Susan H. Coolidge as sole Co-Trustees of the Revocable Trust F/B/O Kathleen Hopkins Roberts dated October 30, 1995, also known as the Kathleen Hopkins Roberts Trust dated October 30, 1995, as said lands are described in the Document Number 2009-116291, Sonoma County Records; thence continuing westerly and along said southerly line and its extension to the centerline of Eastside Road; thence northerly and along the meanderings of the centerline of said Eastside Road to the Point of Beginning.

This legal description was intended to describe an area of interest around a location in the unincorporated area of the County of Sonoma, State of California. It is also intended, in places, along the northerly and easterly borders to follow the Town Limit Boundary.

It is the intent of this description to provide direction as to the perimeter location of the area of interest utilizing roads, streets and exterior parcel boundaries. This legal description is not intended to be used for the precise location of boundary lines for streets, roads or private property holdings.

Prepared by: Aaron R. Smith
Aaron R. Smith, PLS 7901
My license expires 12/31/2015



Date: March 3, 2015

RESOLUTION OF THE TRIBAL COUNCIL
OF
LYTTON RANCHERIA OF CALIFORNIA

RE: Approval of Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California.

RESOLUTION NO. _____

WHEREAS: The Lytton Rancheria Tribal Council ("Tribal Council") is the governing body of the Lytton Rancheria of California ("Tribe") pursuant to Article III of the Tribe's Constitution; and

WHEREAS: The Tribal Council has the authority and power to negotiate and execute contracts with local governments and waive the immunity of the Tribe pursuant to Article XIII, Subsection 13.1(a) of the Tribe's Constitution; and

WHEREAS: The Tribal Council has negotiated a Memorandum of Agreement between the County of Sonoma and the Tribe addressing trust land acquisition by the Tribe ("Agreement"); and

WHEREAS: The Tribal Council has determined that it is in the best interests of the Tribe to approve and sign said Agreement; and

WHEREAS: The Tribal Council agrees to waive the immunity of the Tribe to allow enforcement of the terms contained in said Agreement.

NOW THEREFORE BE IT RESOLVED: That the Tribal Council hereby approves the Agreement entitled "Memorandum of Agreement between the County of Sonoma and the Lytton Rancheria Fee to Trust; and

BE IT FUTHER RESOLVED: That the Tribal Council waives the immunity of the Tribe pursuant to the terms set forth in the Agreement. The Tribal Council specifically recognizes that exhaustion of administrative remedies including before any Tribal Court, shall not be required prior to proceeding to arbitration or court action; and

BE IT FINALLY RESOLVED: That the Tribal Council authorizes Chairperson Margie Mejia to sign and execute said Agreement on behalf of the Tribe.

CERTIFICATION

On _____, 2015, the Tribal Council of the Lytton Rancheria of California , at a duly called meeting at which a quorum was present, did pass the attached Resolution:

RE: Approval of Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California.

by a vote of _____ ayes; _____ nays; _____ abstentions.

MARGIE MEJIA, TRIBAL CHAIRPERSON

DANNY OCAMPO, TRIBAL SECRETARY

Date: March 10, 2015

Item Number: _____
Resolution Number: _____

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,
Authorizing The Chair To Sign A Memorandum Of Agreement Between The County of Sonoma
And The Lytton Rancheria Of California Regarding Development of Tribal Homelands in
Sonoma County.**

Whereas, Sonoma County has a government-to-government relationship with all five federally recognized tribes in the County, respects their tribal sovereignty, and understands the significance of their status as federally recognized tribes; and

Whereas, the County has a long history of advocating for a thorough environmental review and appropriate mitigation of any environmental impacts of tribal development projects that otherwise would be borne by County residents; and

Whereas, Lytton Rancheria of California is a federally-recognized Indian Tribe whose traditional lands lie within Sonoma County; and

Whereas, the Tribe is currently seeking to have lands placed into federal trust status to reestablish a Tribal homeland and to diversify its tribal economy; and

Whereas, the Tribe has proposed that the federal government take into trust 14 parcels consisting of 124.12 acres of land for the development of a residential community, a community center and associated facilities (Residential Development Project) ; and

Whereas, the Tribe is seeking proposed federal legislation to place into trust approximately 500 acres of land that includes the Residential Development Project;

Whereas, it is anticipated that the Tribe will in the future seek to place additional lands into federal trust status; and

Whereas, the Tribe and the County have negotiated an agreement to address issues including gaming, potential off-site environmental impacts, and possible mitigation measures regarding the Residential Development Project and other potential Tribal development, consistent with the Tribe's sovereignty and applicable law; and

time allowing the Tribe to reestablish its homeland and exercise its authority as a sovereign government; and

Whereas, the Residential Development Project and other potential Tribal development are not County projects and are not subject to the discretionary approval of the County, and, absent this Agreement, the County has limited opportunity to influence mitigation measures or seek compensation for adverse environmental impacts; and

Whereas, the Tribe has reached separate agreements with the Windsor Unified School District and Windsor Fire Protection District, and is negotiating with the Town of Windsor toward an agreement regarding water and sewer services.

Now, Therefore, Be It Resolved that the Chair is hereby authorized to sign the Memorandum of Agreement Between the County of Sonoma and the Lytton Rancheria of California regarding Fee to Trust Lands (March 10, 2015).

Be It Further Resolved that entry of the Memorandum of Agreement is not a project subject to the California Environmental Quality Act. By approving, executing and performing the Agreement, the County has not and is not, making any commitment to issue a lease, permit, license, certificate, or other entitlement for use, or develop, construct or improve any facilities or cause any other physical change in the environment.

Be It Further Resolved that the original copy of the Memorandum of Agreement shall be kept by the Clerk of the Board. This document may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

Supervisors:

Rabbitt:	Zane:	Gore:	Carrillo:	Gorin:
Ayes:	Noes:	Absent:	Abstain:	

So Ordered.