



December 20, 2024

Tribal Council

Anthony Roberts
Chairman

Yaminah Durham
Secretary

Leland Kinter
Treasurer

Yvonne Perkins
Member

Seth Lowell
Member

Chad Broussard
Environmental Protection Specialist
Bureau of Indian Affairs, Pacific Region
2900 Cottage Way
Sacramento, CA 95825

Re: Environmental Assessment for the Scotts Valley Casino and Tribal Housing Project

Dear Mr. Broussard:

This letter and its attachments provide further comments from the Yocha Dehe Wintun Nation on the National Environmental Policy Act ("NEPA") review process for the Scotts Valley Casino and Tribal Housing Project ("Project").

Yocha Dehe representatives recently attended a group video conference during which the Director of the Office of Indian Gaming represented (among other things) that the Environmental Assessment ("EA") prepared for the Project remains "under review" and "no decision" has been made about whether to prepare a comprehensive Environmental Impact Statement ("EIS").

In reliance on that representation, we now submit information supplementing our August 22, 2024, comments on the EA. We hope this information is helpful, and we trust it will be carefully considered before any decision on the EA (or the Project) is made.

1. Cooperative Agreement

On November 19, the Vallejo City Council authorized the City Manager to enter a "Cooperative Agreement" with the Scotts Valley Band of Pomo Indians. A copy of the executed City Council Resolution, which includes an authorized form of the Cooperative Agreement¹, is available on the City's website and attached for your convenient reference (*see* Attachment 1).

¹ The City's website does not disclose whether the Cooperative Agreement itself has been executed.

Importantly, neither the City Council's authorizing resolution nor the authorized form of Cooperative Agreement sets out any particular mitigation for the Project's environmental impacts. Instead, by its own terms, the Cooperative Agreement is just "a commitment to initiating discussions" about those mitigation needs (Agreement § 1). The Agreement recognizes that further "technical expert analysis [is] required to inform the parties of the potential impacts and potential mitigations of the [Project]" and, to that end, requires Scotts Valley to reimburse the City for the necessary analysis (Agreement § 2). Only after that additional work is done would specific mitigation measures be developed and proposed in a separate, future Intergovernmental Agreement (Agreement §§ 1, 3).

Although the Cooperative Agreement does not mitigate any Project impacts, it does confirm the inadequacy of the EA. The Agreement expressly recognizes the Project's potentially significant impacts on "water infrastructure, easements, capacity and supply"; "sewer, wastewater and stormwater"; vehicle and emergency access"; "transportation infrastructure and capacity"; "public safety services"; "social impacts"; and "other impacts" (Agreement § 1(a)-(g)). And, again, the Agreement memorializes an acknowledgment by both parties – the City *and Scotts Valley* – that additional "technical expert analysis [is] required to inform the parties of the potential impacts and potential mitigations of the Proposed Project." In short, the Cooperative Agreement confirms that *even Scotts Valley has now acknowledged the EA's inadequacy*.

Finally, it is important to bear in mind that even if informal, private discussions and analyses exchanged between the City and Scotts Valley were to eventually yield proposed mitigation concepts, neither the discussions nor the analyses nor the resulting mitigation proposals would (or legally could) substitute for full NEPA compliance. The Project's significant impacts – and the EA's deficiencies – are far broader than the City's concerns. And NEPA requires a rigorous, public process that includes all relevant stakeholders and is overseen by the lead federal agency. "Outsourcing" environmental review to a confidential bargaining process between two narrowly self-interested parties, while simultaneously excluding other concerned tribes, local governments, environmental groups, and members of the public, would be arbitrary, capricious, and fundamentally contrary to NEPA.

2. Updated Environmental Review

Our August 22 comments identified significant and extensive problems with the EA's analysis of biological resources, water resources, and cumulative impacts (among many others). Since then, there have been several regulatory developments and proposals directly relevant to these issue areas – and more may emerge over the next few weeks. The EA must be substantially updated to fully address the most updated information.

3. Alternative Sites

Our August 22 comments also identified several reasonable, feasible alternative sites capable of minimizing – or avoiding altogether – the Project’s adverse effects on the environment. Each of the identified sites was available and suitable for development. To that list should be added 7130 Red Hills Road, Kelseyville. This is a 35-acre property at the intersection of State Highway 29 and State Highway 281, approximately 2 miles south of Clear Lake and roughly 10 miles from Lakeport. *Scotts Valley appears to have owned the property since 1996.* The Tribe already holds tribal events at this site – including its annual “Big Time” celebration (Attachment 2). In fact, Scotts Valley’s website refers to this property as the Band’s “tribal lands” (Attachment 3). If the Project is genuinely intended to restore a land base for the Scotts Valley’s tribal community, 7130 Red Hills Road is clearly a reasonable option.

4. Supplementation

More generally, our August 22 comments demonstrated that the version of the EA made available for public review and comment did not provide a complete, accurate description of the Project; relied on outdated and unreliable data; ignored significant environmental issues; failed to consider reasonable alternatives; blatantly violated applicable page limits; and impermissibly deferred and impermissibly excluded tribal stakeholders and indigenous knowledge.

Our comments also showed – with expert engineering analysis – that the Project literally cannot be built as proposed. It is not physically possible.

To comply with NEPA, then, it will be necessary to (i) make substantial changes to the Project and (ii) provide substantial additional information about the significance of the Project’s environmental consequences. And that, in turn, means supplementation and recirculation of the environmental document will be required (*see, e.g., 40 C.F.R. § 1501.5(h); BIA NEPA Guidebook at 15*).

To be clear, we do not mean to suggest that an EA could or would satisfy NEPA. The significance of the Project’s environmental consequences clearly demand a comprehensive EIS. Our point is simply that even if you were to decide – wrongly – to proceed with some version of an EA, NEPA would nonetheless require further review and comment on the document before any final action could be taken.

5. Time Limits

During the video conference referenced above, we inquired about the status of the Project’s environmental review process. The Director of the Office of Indian Gaming told us that the EA

Chad Broussard
Environmental Protection Specialist
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was “beyond” applicable time limits, suggesting that immediate action on the Project might be required. This was (and remains) inaccurate. And, in further exchanges with the Office of Indian Gaming, we have clarified – and the Office has agreed – that the EA is not, in fact, “beyond” any regulatory time limit.

The current one-year timeline for completing the EA does not expire until the end of March, 2025. As you are likely aware, that timeline can also be extended if and as needed, including to accommodate the need for supplementation (*see* 40 C.F.R. § 1501.10(b)(1)). It should also be noted that the one-year timeline would become irrelevant once the Department issues a Notice of Intent to prepare an EIS – a clear and obvious requirement for the Project to continue, given the significance of the environmental consequences at stake. We hope this helps avoid any misunderstanding.

Please contact Sarah Choi, Director of Legal (schoi@yochadehe.gov or (530) 976-8378), with any questions.

Wile bo,



Anthony Roberts
Tribal Chairman

cc: Amy Dutschke, Pacific Regional Director, Bureau of Indian Affairs

Attachment 1

RESOLUTION NO. 24-184 N.C.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALLEJO
AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE
AGREEMENT WITH THE SCOTTS VALLEY BAND OF POMO INDIANS OF
CALIFORNIA RELATING TO THE PROPOSED APPLICATION TO PLACE LAND
WITHIN THE CITY OF VALLEJO IN TRUST FOR THE BENEFIT OF THE TRIBE**

WHEREAS, both Parties have engaged in preliminary discussions concerning various matters of mutual interest and concern relating to four parcels of undeveloped land located within and adjacent to the City of Vallejo boundary in Solano County, California, known to both Parties as the “Project Site,” and identified by Assessor’s Parcel Numbers 0182-010-010; 0182-020-010; 0182-020-020, and 0182-020-080; and

WHEREAS, the Tribe has submitted an application (Application) to the United States Department of the Interior requesting that the United States take title to the Project Site so that it will be held in trust for the benefit of the Tribe. As part of the Application, the Tribe has proposed a gaming project and project alternatives as set forth in the Environmental Assessment (Proposed Project); and

WHEREAS, the City has an interest in ensuring that if the Project Site is taken into Trust, impacts from the Proposed Project on Vallejo are adequately mitigated through the National Environmental Policy Act (NEPA) Environmental Assessment process; and

WHEREAS, the Project Site is bordered by I-80 to the west; Columbus Parkway and commercial development to the south; undeveloped land to the north; and undeveloped land, City water tank, electrical substation, and Vallejo Fire Station #27 to the east; and

WHEREAS, in the event the Department of the Interior agrees to place the Project Site into Trust for the benefit of the Tribe absent an agreement, the City would have limited regulatory authority over the Project Site or the Proposed Project; and

WHEREAS, the Parties agree that if the trust application to the BIA is approved, among other priorities, the provision of emergency services and public utilities to the Proposed Project and Project Site benefits the Tribe, the City and the citizens of the region by protecting the health and safety of persons on or near the Proposed Project and Project Site; and

WHEREAS, as the Department of the Interior completes its environmental assessment of the Proposed Project and Project Site, both Parties recognize the importance and need for immediate discussions to occur on the various topics of mutual interest concerning the Proposed Project and Project Site that include, but are not limited to: water infrastructure; existing and potential future easements and supply capacity related to same; wastewater, sewer, and storm drainage easements and capacity; vehicle and emergency vehicle access to the Project Site; transportation infrastructure and capacity; public safety capacity and response; and any other environmental impact area potentially affecting the City, its residents, businesses, and visitors; and

WHEREAS, both Parties acknowledge that the above-mentioned topics of mutual interest require prompt attention and commitment to mitigate any potential impacts caused by future development of the Proposed Project and Project Site and wish to memorialize such terms in writing; and

WHEREAS, the Parties intend to incorporate these topics, as well as any other negotiated terms, into a separate and subsequent Intergovernmental Agreement; and

WHEREAS, the purpose of this Cooperative Agreement is to establish a legally enforceable framework for negotiating and entering into an Intergovernmental Agreement to mitigate the potential impacts of the Proposed Project on the City of Vallejo; and

WHEREAS, the Tribe and the City intend to establish a cooperative and mutually respectful government-to-government relationship between each other with respect to the Tribe's potential development of the Proposed Project and Project Site and mitigation of potential impacts that are caused by future development of the Proposed Project and Project Site; and

WHEREAS, this Agreement establishes a procedure for negotiation of a government payment and funding mechanism and, by executing this Agreement and the activities contemplated herein, the City does not commit itself to any project as that term is defined under the California Environmental Quality Act or the NEPA; and

WHEREAS, the Parties expressly intend for the Intergovernmental Agreement to replace and supersede this Cooperative Agreement, and that upon its execution, the Cooperative Agreement shall be rendered null and void; and

WHEREAS, this Cooperative Agreement is not intended to limit the City's rights under applicable law to address the adequacy or appropriateness of the environmental analysis in the Environmental Assessment.

NOW, THEREFORE BE IT RESOLVED that the City Council does hereby authorize the City Manager or his designee to execute the Cooperative Agreement attached hereto as **Exhibit A**, with any modifications recommended by the City Attorney or the City Manager.

Adopted by the City Council of the City of Vallejo at a regular meeting held on November 19, 2024, with the following vote:

AYES: Mayor McConnell, Vice Mayor Loera-Diaz, Councilmembers Arriola, Bregenzer, Matulac, Palmares, and Verder-Aliga
NOES: None
ABSENT: None
ABSTAIN: None

DocuSigned by:

ROBERT H. MCCONNELL

FDE03EAF234444E

ROBERT H. MCCONNELL, MAYOR

DocuSigned by:

Dawn G. Abrahamson

1489DDA6695D425

DAWN G. ABRAHAMSON, CITY CLERK

ATTEST:

COOPERATIVE AGREEMENT

BETWEEN

SCOTTS VALLEY BAND OF POMO INDIANS OF CALIFORNIA

AND

CITY OF VALLEJO

THIS COOPERATIVE AGREEMENT (“Cooperative Agreement”) is made and entered into this ___ day of _____, 2024, by and between Scotts Valley Band of Pomo Indians of California (the “Tribe”), a federally recognized Indian tribe and the City of Vallejo (the “City”), a California municipal corporation. Each referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, both Parties have engaged in preliminary discussions concerning various matters of mutual interest and concern relating to four parcels of undeveloped land located within and adjacent to the City of Vallejo boundary in Solano County, California, known to both Parties as the “Project Site,” and identified by Assessor’s Parcel Numbers 0182-010-010; 0182-020-010; 0182-020-020, and 0182-020-080; and

WHEREAS, the Tribe has submitted an application (the “Application”) to the United States Department of the Interior requesting that the United States take title to the Project Site so that it will be held in trust for the benefit of the Tribe. As part of the Application, the Tribe has proposed a gaming project and project alternatives as set forth in the Environmental Assessment (Proposed Project); and

WHEREAS, the City has an interest in ensuring that if the Project Site is taken into Trust, impacts from the Proposed Project on Vallejo are adequately mitigated through the National Environmental Policy Act (NEPA) Environmental Assessment process; and

WHEREAS, the Project Site is bordered by I-80 to the west; Columbus Parkway and commercial development to the south; undeveloped land to the north; and undeveloped land, City water tank, electrical substation, and Vallejo Fire Station #27 to the east; and

WHEREAS, the Parties agree that if the Application to the Department of the Interior is approved, among other priorities, the provision of emergency services and public utilities to the Proposed Project and Project Site benefits the Tribe, the City and the citizens of the region by protecting the health and safety of persons on or near the Proposed Project and Project Site; and

WHEREAS, as the Department of the Interior completes its environmental assessment of the Proposed Project and Project Site, both Parties recognize the importance and need for immediate discussions to occur on the various topics of mutual interest and concern regarding the Proposed

Project and Project Site that include, but are not limited to: water infrastructure; existing and potential future easements and supply capacity related to same; wastewater, sewer, and storm drainage easements and capacity; vehicle and emergency vehicle access to the Project Site; transportation infrastructure and capacity; public safety capacity and response; and any other environmental impact area potentially affecting the City, its residents, businesses, and visitors; and

WHEREAS, both Parties acknowledge that the above-mentioned topics of mutual interest and concern require prompt attention and commitment to mitigate any potential impacts caused by future development of the Proposed Project and Project Site and wish to memorialize such terms in writing; and

WHEREAS, the Parties intend to address these topics, as well as any other negotiated terms, in a separate and subsequent Intergovernmental Agreement; and

WHEREAS, the purpose of this Cooperative Agreement is to establish a legally enforceable framework for negotiating a potential Intergovernmental Agreement to mitigate the potential impacts of the Proposed Project on the City of Vallejo; and

WHEREAS, the Tribe and the City intend to establish a cooperative and mutually respectful government-to-government relationship between each other with respect to the Tribe's potential development of the Proposed Project and Project Site and mitigation of potential impacts that are caused by future development of the Proposed Project and Project Site; and

WHEREAS, this Agreement establishes a procedure for negotiation of a government payment and funding mechanism and, by executing this Agreement and the activities contemplated herein, the City does not commit itself to any project as that term is defined under the California Environmental Quality Act or the NEPA; and

WHEREAS, this Agreement does not constitute a "project" for CEQA purposes because it involves the creation of a government funding mechanism and/or other government fiscal activity. The terms in this Agreement do not involve any commitment to any "project" outside of tribal trust land which may result in a potentially significant physical impact on the environment and only require the Tribe to make payments for identified mitigation measures and community benefit programs. This Agreement does not obligate the City to undertake any specified mitigation measure or program or construction project nor does it set a time for development as those terms are used in CEQA; and

WHEREAS, the City recognizes and acknowledges that the Proposed Project will be located inside the incorporated boundaries of the City and that, if acquired into trust status, the City would have no authority to exercise jurisdiction over the Proposed Project. The City will not have legal authority to deliberate on, approve, disapprove, or otherwise exercise judgment regarding the Proposed Project. The City is therefore not deliberating on, approving,

disapproving, or otherwise exercising judgment regarding the Proposed Project by entering into this Agreement; and

WHEREAS, the Parties expressly intend for the Intergovernmental Agreement to replace and supersede this Cooperative Agreement, and that upon its execution, the Cooperative Agreement shall be rendered null and void; and

WHEREAS, this Cooperative Agreement is not intended to limit the City's rights under applicable law to address the adequacy or appropriateness of the environmental analysis in the Environmental Assessment.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Objective, Intent, and Purpose

The purpose of this Cooperative Agreement is to formalize the Parties' commitment to initiating discussions and establishing a foundational framework for cooperative negotiations on matters of shared interest relating to the Proposed Project and Project Site. Immediately upon the execution of this Cooperative Agreement, the Parties shall commence diligent and good faith negotiations and shall otherwise use their best efforts to finalize, approve, execute and deliver an Intergovernmental Agreement to meet the objectives described herein. The purpose of the Intergovernmental Agreement is to provide for binding and enforceable mitigations of the potentially significant environmental effects of the Proposed Project, including but not limited to:

- (a) Water Infrastructure, Easements, Capacity and Supply: Design, connection, and expansion of water services to support the Proposed Project and Project Site's development, including any necessary easements, infrastructure, necessary supply, and capacity expansion.
- (b) Sewer, Wastewater and Stormwater: Coordinating with the Vallejo Flood and Wastewater District and the City on the establishment of appropriate easements and infrastructure necessary for wastewater and stormwater services and capacity therefor.
- (c) Vehicle and Emergency Access: Ensuring adequate access to the Proposed Project and Project Site for vehicles, including emergency services, to maintain public safety and facilitate emergency response.
- (d) Transportation Infrastructure and Capacity: Design, planning and construction of necessary infrastructure for traffic and transportation to address local and regional impacts.

- (e) Public Safety Services: Identifying service level capacity necessary for law enforcement, fire protection, and emergency medical services to be provided in connection with the Proposed Project impacts.
- (f) Social Impacts: Identifying adequate measures to address social impacts resulting from the Proposed Project, such as gambling addiction, personal bankruptcies, prostitution, drug addiction, and crime.
- (g) Other Impacts: Facilitating discussions of any other impacts identified in the Environmental Assessment or those which may be identified by the Parties during the negotiations contemplated herein.

This Cooperative Agreement serves as an initial step towards a comprehensive Intergovernmental Agreement that will formalize the specific terms and conditions related to these topics, as well as any other matters mutually agreed upon by the Parties. Negotiations for the Intergovernmental Agreement will be guided by a mutual evaluation of each Party's specific needs, standards, and resource capacities. This Cooperative Agreement also serves to identify ways for the Tribe and the City to work together to provide services and benefits to the Tribal community and City of Vallejo residents. The Tribe agrees to enter into a Reimbursement Agreement to reimburse the City for all costs and expenses incurred by the City in connection with the technical expert analysis required to inform the parties of the potential impacts and potential mitigations of the Proposed Project, plus a 20% Administrative fee.

2. Scope of Discussions

The discussions under this Cooperative Agreement will focus on key areas essential to the completion of the Environment Assessment of the Proposed Project and Project Site described in Section 1. The Parties are committed to promptly engaging in discussions to reach mutual understanding on these topics and incorporate the agreed-upon terms into a future Intergovernmental Agreement.

Additionally, the Parties may explore other relevant topics, including but not limited to: (i) biological resources, (ii) transportation and traffic management, (iii) visual and aesthetic considerations, (iv) geotechnical issues and landslide risk, (v) market studies and economic analysis, (vi) utility easement locations, and (vii) environmental impacts identified in the final Environmental Assessment prepared by the Department of the Interior. The Parties agree to consider any additional topics that may arise during the course of discussions.

3. Intergovernmental Agreement

The terms and conditions established through negotiations under this Cooperative Agreement, along with any additional topics identified during the discussions, will be formalized in a subsequent Intergovernmental Agreement which will be applicable if the United States

Department of the Interior places the Project Site into Trust. The Intergovernmental Agreement will incorporate the mutually agreed-upon topics set forth in this Cooperative Agreement and any other provisions that the Parties determine necessary to support the development and ongoing cooperation regarding the proposed Project and Project Site. The primary purpose of the Intergovernmental Agreement will be to provide a funding mechanism for the Tribe to compensate the City relating to the topics of interest identified herein, as well as to provide reasonable compensation to offset impacts to public safety and other impacts attributable to development and tribal gaming activities on the proposed Project and Project Site.

4. Mutual Topics of Interest

As the Department of the Interior's consideration of the acquisition of the Project Site into trust for the Tribe progresses, the Tribe and the City commit to ongoing consultation and cooperation on the following areas:

4.1. Emergency Services Provision

The Tribe and the City will work in good faith to establish the terms of an Intergovernmental Agreement for the delivery of emergency services to the Proposed Project and Project Site. This will include:

- (a) Law Enforcement: Negotiating provisions for law enforcement services post trust acquisition, including, but not limited to: addressing the City's requirements for training, vehicles, and personnel necessary to support law enforcement efforts at the Proposed Project and Project Site.
- (b) Fire and Emergency Medical Services: Currently, Vallejo Fire Station #27 serves the Proposed Project and Project Site. The Intergovernmental Agreement will include but is not limited to provision of fire protection and emergency medical service post-trust acquisition at the Proposed Project and Project Site. At the Tribe's request, the City will also negotiate terms for conducting fire inspection services at the Proposed Project and Project Site.

4.2. Infrastructure and Utility Connectivity

The Tribe plans to integrate City utility connections to serve development within the Proposed Project and Project Site, adhering to the City's development guidelines and public works standards. Key aspects include:

- (a) Design and Approval: Utility connections will be designed to meet City requirements, with the City responsible for reviewing and approving designs, as well as inspecting the connections. Fees and rates for City utility services will be consistent with those applied to other City customers.

- (b) Coordination of Utilities: The Tribe and the City will coordinate, as needed, to facilitate the extension of City utilities to and throughout the Proposed Project and Project Site.
- (c) Easements for Utilities: The Tribe will grant easements to the City for accessing and maintaining utility improvements that are maintained or owned by the City within the Proposed Project and Project Site, including an easement for the City's water tank access and maintenance.

4.3. Roadways

The Tribe will retain ownership of all roadways within the Proposed Project and Project Site and will be responsible for the associated design, construction, and maintenance costs. The Intergovernmental Agreement with the City will include:

- (a) Traffic Management: City approval of design and construction of improvements related to traffic impacts such as: new roadways, lane widening, traffic control measures, and regulatory signage.
- (b) Emergency and Alternative Access: Negotiating and designing easements for emergency access and alternative roadways across City or other lands to ensure adequate ingress and egress including construction and maintenance of same.

4.4. Land Use.

The Intergovernmental Agreement shall include terms for addressing land use impacts arising from the development of the Proposed Project and Project Site.

Specifically, the Parties agree that the Intergovernmental Agreement will address the City's interests and concerns regarding infrastructure on the trust land that may have an impact on the surrounding off-trust land areas. The Tribe will work collaboratively with the City to assess and address such concerns to ensure that any potential impacts on the City's infrastructure systems and services are analyzed and mitigated appropriately. Furthermore, the Tribe will be responsible for obtaining land use approvals and building permits from the City for off-trust land infrastructure development. Any off-trust land development associated with the Proposed Project shall be subject to the City's zoning and development standards, including but not limited to the City of Vallejo Zoning Code, California Building Code, California Fire Code, and other City-adopted uniform codes set forth in Title 12 of the Vallejo Municipal Code.

The Tribe acknowledges and agrees that the Proposed Project shall comply with the building and construction standards of the California Building Code and California Administrative Code or alternatively such standards of the International Building Code and International Code Council. In addition, the Tribe will agree to meet the City's building and safety standards. The Tribe will agree to consult with the City concerning the design of the

Proposed Project and to receive the City's input as to the Proposed Project design. Notwithstanding the foregoing, the Parties acknowledge that the City does not have any jurisdiction or regulatory authority over the design of the Proposed Project, does not have legal authority to approve or disapprove the Proposed Project design, and that the decision of the Tribe to accept or reject input from the City as to the Proposed Project design shall be wholly voluntary for the Tribe and within the Tribe's sole discretion. While no City-issued permits are required for construction on trust land, the Tribe shall make reasonable efforts to ensure that its design and construction meet qualifications and standards equivalent to those required by the City, where applicable to other properties within the City.

Notwithstanding the above, the City expressly retains its full authority over all existing easements and infrastructure located on the Property, and nothing in this Agreement shall be construed as a release, waiver, or limitation of the City's rights or jurisdiction concerning such easements and infrastructure. Should the Secretary of the Interior, pursuant to 12 C.F.R. 151.14(b), identify and require the elimination of such easements or encumbrances as a condition for acceptance of the Project Site into trust status due to a determination that they render title unmarketable, the Parties will meet and confer regarding any possible relocation of said easements or encumbrances at the sole cost of the Tribe. Nothing in this Agreement shall obligate the City to agree to any such relocation or to elimination of any City easement or encumbrance.

4.5 Addressing Other Potential City Impacts

The Intergovernmental Agreement will include terms for addressing potential impacts arising from the development of the Proposed Project and Project Site, such as:

- (a) Traffic and Community Services: Evaluating and mitigating any increased demands on traffic, community services, utilities, and land use compatibility.
- (b) Environmental Considerations: Facilitating discussions around environmental impacts, including wastewater and stormwater management.
- (c) Economic Considerations: Facilitating discussions of the Tribe's fair share of fees, taxes, assessments and other revenues that the City may lose as a result of the Proposed Project.
- (d) Housing Considerations: Facilitating discussions around mitigating the loss to the City's potential housing capacity.
- (e) Other Considerations: Facilitating discussions of impacts not expressly identified herein which may arise throughout the Environmental Assessment, trust and gaming compact process.

5. Wastewater and Stormwater Management

The Tribe acknowledges that the City does not provide wastewater or most stormwater services and will seek a separate agreement with the Vallejo Flood and Wastewater District for those services controlled by the District.

6. City Non-Opposition

Provided the Intergovernmental Agreement is timely executed by the Parties and in consideration of the covenants of the Tribe within this Cooperative Agreement, the City agrees not to oppose any efforts by the Tribe to cause the Department of the Interior to accept trust title to the Project Site for the benefit of the Tribe.

7. Term

This Cooperative Agreement shall be effective as of the date first written above and shall continue in effect until: 1) superseded by the execution of a formalized Intergovernmental Agreement; 2) terminated by the City in accordance with Section 9, below; 3) the Application is withdrawn before a final determination is made by the Department of the Interior; or 4) a final determination is made by the Department of the Interior to not take the Project Site into Trust, whichever occurs first.

8. Dispute Resolution

In an effort to foster good government-to-government relationships, the Parties agree to the dispute resolution procedures set forth in this Section. The Parties shall make their best efforts to resolve claims of breach of this Cooperative Agreement by good faith negotiations whenever possible. Any such disputes between the Parties shall first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation in the efficiency in the administration of the terms, provisions and conditions of this Cooperative Agreement as follows:

- (a) A Party shall give the other party, as soon as possible after the event giving rise to the dispute, written notice setting forth, with specificity, the claims that constitute breach of this Cooperative Agreement.
- (b) The Parties shall meet and confer in good faith to resolve such a dispute through negotiation not later than 10 days after receipt of the notice, unless the Parties agree in writing to the extension of time.

This section may not be construed to waive, limit, or restrict the ability of the Parties to pursue, by mutual agreement, any other method of dispute resolution including, but not limited to, arbitration, mediation, or utilization of a technical advisor to the Parties; provided, however, that no party is under an obligation to agree to such alternative method of dispute resolution.

9. Termination

The City has the right, at any time and in its sole discretion, to immediately terminate this Agreement by giving written notice to the Tribe.

Upon termination of this Agreement as provided herein, none of the provisions of this Agreement shall be deemed to survive such termination and neither party shall have any liability to the other Party with respect to any matters arising under or related to this Agreement.

10. Confidential Information

The Parties agree that, to the extent permitted by law, any non-public information disclosed during the negotiations or performance of this Cooperative Agreement (“Confidential Information”) shall be treated as confidential. Confidential Information may include proprietary business data, financial details, trade secrets, or any other information that is reasonably designated as confidential by the Tribe as the disclosing party.

The City shall not disclose any Confidential Information to third Parties except as required by law, including, but not limited to, the California Public Records Act (CPRA), or by court order. If a request for disclosure of Confidential Information provided by the Tribe is made under the CPRA, the City shall promptly notify the Tribe. The City will cooperate with the Tribe’s efforts to seek a protective order or other remedy to maintain confidentiality, if requested.

The confidentiality obligations set forth herein shall not apply to information that: (i) becomes publicly available through no wrongful act or omission of the City as the receiving Party; (ii) is lawfully received from a third party without an obligation of confidentiality; (iii) is independently developed by the City as the receiving party without reference to the disclosed Confidential Information; or (iv) must be disclosed pursuant to a legal obligation, regulation, or court order.

11. Governing Law; Venue.

This Cooperative Agreement shall be governed by the laws of the State of California. Venue shall be in Solano County.

12. Limited Waiver of Sovereign Immunity

Subject to the provisions of this Agreement, the Tribe expressly and irrevocably waives Sovereign Immunity (and defenses based thereon), in favor of the City, but not to any other person or entity, as to any dispute which specifically arises under this Cooperative Agreement, and not as to any other actions, matters, or disputes. The waiver shall include a resolution of the General Council of the Tribe, in a form similar to attachment ‘A.’

13. Miscellaneous

13.1 Notices. All notices, requests, demands, and other communications under this Cooperative Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the Party to whom notice is to be given, or on the third day after mailing if mailed to the Party to whom notice is to be given, by first class mail, registered or certified, postage prepaid, and properly addressed as follows:

As to the Tribe: Office of the Chairman
Scotts Valley Band of Pomo Indians
804 Eleventh Street
Lakeport CA 95453

With a copy to: Patrick R. Bergin
Peebles Bergin Schulte & Robinson LLP
2020 L Street, Ste. 250
Sacramento, CA 95811

As to the City: City Manager
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

With a copy to: City Attorney
City of Vallejo
555 Santa Clara Street
Vallejo, CA 94590

Either Party may change its address for the purposes of this Cooperative Agreement by providing written notice of the new address to the other Party.

12.2 Limitation of Liability. Neither Party shall be liable to the other for any indirect, special, incidental, punitive, or consequential damages, including but not limited to loss of profits, revenue, data, or use, incurred by either Party or any third party, whether in an action based on contract, tort, or otherwise, even if advised of the possibility of such damages.

12.3 No Third-Party Beneficiaries. This Cooperative Agreement does not confer any rights or benefits upon any person or entity other than the Parties, their successors, or permitted assigns.

12.4 Severability. If any provision of this Cooperative Agreement is found to be invalid, illegal, or unenforceable, the remaining provisions will remain in full

force and effect. To the extent possible, the invalid, illegal, or unenforceable provision will be modified to reflect the original intent of the Parties while complying with applicable law.

- 12.5** Waiver. No delay or failure by either Party to exercise any right, power, or privilege under this Cooperative Agreement will be deemed a waiver of such right, power, or privilege. A waiver of any breach shall not constitute a waiver of any subsequent breach.
- 12.6** Amendment; Modification. This Cooperative Agreement may be amended or modified only by a written instrument signed by both Parties. No amendment shall be effective unless it is in writing and signed by both Parties.
- 12.7** Neutral Interpretation. This Cooperative Agreement shall be interpreted in an impartial manner, without regard to which Party drafted any provision. Both Parties acknowledge that they have had the opportunity to negotiate the terms and therefore agree that no presumption will arise against the drafting Party in interpreting or enforcing the Agreement.
- 12.8** Headings. The headings and captions in this Cooperative Agreement are for convenience and reference only and do not affect the interpretation or scope of the provisions.
- 12.9** Counterparts. This Cooperative Agreement may be executed in counterparts.
- 12.10** Electronic Signature. The Parties agree that this Cooperative Agreement may be executed by electronic signatures, which shall be considered equivalent to handwritten signatures for all purposes. The Parties further agree not to challenge the validity of this Cooperative Agreement solely on the basis that it was signed electronically.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Cooperative Agreement to be executed by their duly authorized representatives and have executed this Cooperative Agreement as of the date first written above.

CITY OF VALLEJO:

Date: _____ By: _____
Robert H. McConnell Mayor

APPROVED AS TO FORM BY CITY ATTORNEY:

Date: _____ By: _____
Veronica Nebb, Esq.
City Attorney

SCOTTS VALLEY BAND OF POMO INDIANS:

Date: _____ By: _____
Shawn Davis
Tribal Chairman

APPROVED AS TO FORM BY COUNSEL FOR THE TRIBE:

Date: _____ By: _____
Patrick R. Bergin, Esq.
Peebles Bergin Schulte & Robinson LLP

ATTACHMENT A

SCOTTS VALLEY GENERAL COUNCIL

RESOLUTION NO. S.V. # ____-_____

RESOLUTION FOR APPROVAL BY THE GENERAL COUNCIL OF THE
SCOTTS VALLEY BAND OF POMO INDIANS FOR A CERTAIN LIMITED WAIVER
OF SOVEREIGN IMMUNITY AND CONSENT TO JURISDICTION FOR THE
COOPERATIVE AGREEMENT BETWEEN THE SCOTTS VALLEY BAND OF POMO
INDIANS OF CALIFORNIA AND CITY OF VALLEJO

WHEREAS, The Scotts Valley Band of Pomo Indians (“Band”) is a sovereign, self-governing Indian Tribe formally recognized by the United States Government; and

WHEREAS, The Band is organized under the Constitution of the Scotts Valley Band of Pomo Indians of the Sugar Bowl Reservation ("Constitution"), adopted and approved September 24, 1994; and

WHEREAS, Article VI, Section 3 of the Constitution vests the General Council with the reserved authority to waive the Band's sovereign immunity to uncontested suit;
and

WHEREAS, Pursuant to Article III of the Constitution, the governing body of the Band is the Tribal Council; and

WHEREAS, Article VI, Section 3 of the Constitution vests the Tribal Council with the appropriate powers necessary to implement the provisions of the Constitution of Scotts Valley Band of Pomo Indians and to effectively govern the affairs of Scotts Valley Band of Pomo Indians; and

WHEREAS, The jurisdiction of the Band extends to all those lands held in trust, or hereinafter acquired in trust by the United States of America for the Band or any member thereof; and

WHEREAS, The Band and the City of Vallejo (“City”) intend to establish a cooperative and mutually respectful government-to-government relationship between each other and have entered into a Cooperative Agreement, authorized by Tribal Council Resolution No.____, for the purpose of negotiating topics of mutual interest and concern in an Intergovernmental Agreement regarding the Band’s proposed casino and tribal housing project in Vallejo; and

WHEREAS, by Tribal Council Resolution No.____, the Tribal Council has requested that the General Council approve a limited waiver of the Tribe's sovereign immunity with regard to disputes specifically arising under the Cooperative Agreement as provided and to the extent set forth in the Cooperative Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. Delegation of Authority to Offer Limited Waiver of Sovereign Immunity. The General Council hereby authorizes the grant of a limited waiver of sovereign immunity and authorizes the Tribal Council to effectuate the waiver on behalf of the Band to the City of Vallejo (the "City"), for the purpose of executing the Cooperative Agreement, provided that such waivers are in compliance in all material respects with this Resolution and the limitations set forth herein.

B. Prescription on Recourse under Limitations of Waivers of Sovereign Immunity. The limited waiver of sovereign immunity the Tribal Council authorizes and approves on behalf of the Band must comply in all material respects with the limited purposes according to the conditions set forth in this Resolution, must specifically identify the benefiting party, and must be in accordance with this Resolution.

C. Limited Waiver of Sovereign Immunity. The Band does not consent to a waiver of sovereign immunity from suit except for the limited purpose as set forth in this section. The grant of a waiver sovereign immunity set forth herein only applies to the City, but not to any other person or entity, as to any dispute which specifically arises under this Cooperative Agreement, and not as to any other actions, matters, or disputes. Except as expressly stated herein, nothing in this limited waiver of sovereign immunity shall be deemed a further waiver of the Band's sovereign immunity or a consent to the jurisdiction of any State or Federal court or any other body.

BE IT FURTHER RESOLVED, that the General Council authorizes the Chairman of the Tribal Council and the Tribe's designated representatives to take any necessary actions to implement the provisions of this resolution and to finalize and execute the Cooperative Agreement with the City of Vallejo.

BE IT FURTHER RESOLVED, that this resolution shall be effective immediately upon approval by the General Council.

CERTIFICATION

We, the undersigned duly elected officials of the Scotts Valley Band of Pomo Indians, certify that the foregoing resolution was adopted at a duly-called meeting of the General Council on this ____ day of _____, 2024, at which a quorum was present, by a vote of ____ for, ____ against, and ____ abstentions.

By:

Tribal Chairman

By:

Tribal Secretary

Attachment 2

Scotts Valley Band of Pomo Indians Annual Big Time

Date & Time

August 26, 2023
10:00AM - 10:00PM

FREE. Tribal cultural event featuring Pomo dancers, kids' activities, art vendors & food. Aug. 25: 6–10 p.m. Aug. 26: 10 a.m.– 10 p.m. 7130 Red Hills Rd., Kelseyville. tinyurl.com/3h42m9r3.

Location

Share

Red Hills Tribal Land - 7130
Red Hills Rd., Kelseyville, CA,
94928
[Get Directions](#)

More Info

[Event Website](#)

Free

[Kids & Family](#)

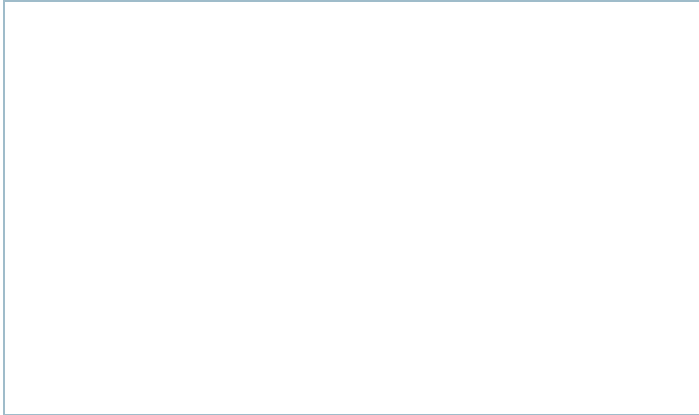
[Browse More Events](#)

Attachment 3

SERVICE FINDER

Facility Directory Table List

Red Hills Tribal Land



ADDRESS:

7130 Red Hills Rd
Kelseyville, CA 95451

[Return to full list >>](#)