

FORM APPROVED COUNTY COUNSEL
 BY: *[Signature]* GREGORY P. PRIAMOS
 DATE: 12/10/15

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



SUBMITTAL DATE:
 December 8, 2015

FROM: Executive Office

SUBJECT: Intergovernmental Agreement with the Pechanga Band of Luiseño Indians
 [Revenue agreement - \$334,000], [3rd District].

- RECOMMENDED MOTION:** That the Board of Supervisors:
1. Approve the attached Intergovernmental Agreement with the Pechanga Band of Luiseno Indians for expansion of their resort facilities, pursuant to provisions of the Tribal-State Compact and in accordance with Board of Supervisors' policy direction;
 2. Authorize the Chairman to execute the agreement on behalf of the County.

Departmental Concurrence

BACKGROUND:

Summary

To complement the Pechanga Resort & Casino, the Pechanga Band of Luiseño Indians proposes to expand their resort facilities, located on Tribal land in the City of Temecula. This expansion will include: two hotel towers, with a combined total of 568 new rooms, an events center, meeting and restaurant space, a detached spa, a salon, fitness center, resort pool area, multi-use outdoor area, warehouse storage and parking.

[Signature]
 Jennifer L. Sargent
 Principal Management Analyst

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$	\$	\$	\$	

SOURCE OF FUNDS: Revenue agreement in the amount of \$334,000.
Budget Adjustment: N/A
For Fiscal Year: FY 2015/16

C.E.O. RECOMMENDATION:

APPROVE
 BY: *[Signature]*
 Debra Cournoyer

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Washington, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
Nays: None
Absent: None
Date: December 15, 2015
xc: EO

Kecia Harper-Ihem
 Clerk of the Board
 By: *[Signature]*
 Deputy

- A-30
- 4/5 Vote
- Positions Added
- Change Order

Prev. Agn. Ref.: | **District:** 3 | **Agenda Number:**

3-54

SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

FORM 11: Intergovernmental Agreement with the Pechanga Band of Luiseño Indians

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BACKGROUND:

Summary (continued)

In August 2015, the Pechanga Band of Luiseño Indians released a draft Tribal Environmental Impact Report identifying potential environmental impacts associated with their planned expansion and proposed mitigation measures.

In accordance with policy direction provided by the Board on September 1, 2015 (3-42), negotiations were conducted through respectful government-to-government relations, in consultation and collaboration with County Counsel and the office of 3rd District Supervisor Washington. In addition, County departments participated to identify off-reservation effects on the environment and additional public safety/public services required to support the expanded resort services/uses. Numerous meetings were held with Tribal and department representatives to ensure open dialogue and full discussion of agreement terms. Finally, County Counsel consolidated department comments and worked with Pechanga Tribal Counsel to arrive at a mutually agreeable Intergovernmental Agreement.

Pursuant to the terms of the Tribal-State Compact, only impacts resulting from the new project (defined in Section 10.8.7 of the Tribal-State Compact) can be considered during negotiation of an Intergovernmental Agreement. The proposed expansion is solely for resort facilities/amenities, rather than casino area or gaming devices, and is intended to primarily support existing Pechanga Resort and Casino clientele. The expansion will be located on Tribal land within the Reservation, which is uniquely situated in that it is fully bordered by the City of Temecula. For this reason, the majority of the anticipated environmental impacts from the proposed expansion, including traffic impacts, fall primarily within the City of Temecula. Accordingly, the City of Temecula negotiated an Intergovernmental Agreement with the Pechanga Band of Luiseño Indians to address their anticipated impacts. Nonetheless, the County provides important services to the Pechanga Resort and Casino, including law enforcement and prosecution, which are anticipated to increase some as a result of the expansion.

In consideration of these factors, the Intergovernmental Agreement before you provides annual funding for the Sheriff's Department, in the amount of \$289,000, for one (1) fully-burdened sworn peace officer (to be adjusted for changes in cost). In addition, annual funding for the District Attorney's Office, in the amount of \$45,000, for approximately 20 percent of one (1) fully-burdened Deputy District Attorney IV position (to be adjusted for changes in cost). The Pechanga Band of Luiseño Indians also agrees to participate in future government-to-government discussions with the City of Temecula, County of Riverside and Caltrans regarding regional transportation improvements and, if necessary, to participate/cooperate in good faith negotiations for a more detailed Fire/Emergency Services mutual/automatic aid agreement. Finally, the Tribe and the County agree to continue meeting and conferring in good faith to seek funding and cooperative programs that will enhance public safety and the community and to identify and allocate funding for services, programs or projects mutually beneficial to the Tribe and the County, potentially through an Indian Gaming Special Distribution Fund or similar program.

History

In 1999, the State of California entered into agreements (compacts) with federally recognized Tribal governments operating casinos within Riverside County. These compacts reaffirmed exclusivity to Tribes operating Vegas-style casinos, enabling Tribal self-sufficiency. In addition, the compacts established a maximum of two casinos and 2,000 class III gaming devices per Tribe and required payment into a fund that addressed gaming impacts suffered by local communities.

In 2006, Governor Schwarzenegger signed Amended Tribal-State Compacts with three Riverside County Tribes (ratified by voters in 2008) allowing expanded gaming operations on Tribal land and extending the agreements. In consideration for the right to expand gaming operations, Tribes were required to pay the equivalent of a state tax, rather than paying into the fund that addressed impacts on nearby communities.

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Through the amended compacts, these Tribal governments also agreed to provide additional consumer protections and negotiate Intergovernmental Agreements with local jurisdictions in the event of proposed construction of new casinos, expanding existing casinos or support/related facilities, or increasing the number of class III gaming devices beyond the previously approved maximum.

Impact on Residents and Businesses

Intergovernmental Agreements to address significant effects of new or expanded gaming and/or facilities will benefit residents and businesses by improving the economy and maintaining safe and desirable communities.

ATTACHMENT:

A. Pechanga-County of Riverside Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("Agreement") is dated and effective as of December ___, 2015, by and between the Pechanga Band of Luiseño Indians, a federally recognized Indian tribe (the "Tribe"), and the County of Riverside, California (the "County"), which are 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' governmental entities, departments and officials unless otherwise stated.

RECITALS

WHEREAS, the Tribe is a federally recognized Indian Tribe located on federal trust lands which are located within the geographic boundaries of Riverside County (the "County") and abut or are near City of Temecula boundaries; and

WHEREAS, the Tribe has inhabited the Temecula Valley for more than 10,000 years (and according to Tribal history and culture, since time immemorial); and

WHEREAS, the Pechanga Indian Reservation was established by Executive Order of the President of the United States on June 27, 1882, affirming the Tribe's sovereignty and land-base; and

WHEREAS, under the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.* ("IGRA"), the Tribe may engage in gaming as a means of promoting Tribal economic development, self-sufficiency and strong Tribal government; and

WHEREAS, IGRA generally requires that Class III gaming be conducted pursuant to a Tribal-State Class III gaming compact; and

WHEREAS, on or about September 10, 1999, and effective in May 2000, the Tribe entered into a gaming compact with the State of California, as contemplated under IGRA, which compact was amended effective March 2008, and which compact and amendment is referred to herein as the "Compact"; and

WHEREAS, the Tribe desires to operate tribal economic development projects 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 determined that a casino featuring Class II and Class III gaming activities, as authorized under IGRA and, with respect to Class III activities, the Compact, and a hotel and related parking, common areas and amenities (the "Gaming Facility" as more specifically defined in Section 2.6) would be a way in which to generate independent Tribal resources to provide for the health, education, employment, government, general welfare, safety, and cultural needs of the Tribe and, accordingly, the Tribe has successfully developed and now operates and maintains the Gaming Facility, which as of the date of this Agreement consists of an approximately 200,000 square foot casino, which includes seven restaurants and related amenities; a thirteen-story, 522-room hotel; three parking structures plus surface parking that in

total can accommodate at least 8,567 cars, recreation vehicles (RVs), and buses; administrative, regulatory, maintenance and service structures; and common areas related thereto; and

WHEREAS, Pechanga employs more than 5,250 people. The Pechanga Reservation's proximity within Riverside County makes the County a significant beneficiary of the Tribe's economic activities, with 4,352 residents in Riverside County receiving wages, benefits, and other payments of nearly \$265 million in 2012. The Tribe and the Pechanga Resort & Casino purchased more than \$38 million worth of goods and services directly from merchants and suppliers in Temecula that year. Since opening the Pechanga Resort & Casino in 2002, the Tribe has provided over \$29 million for road improvements and public safety services in the County, helped secure a \$6 million federal grant for widening the bridge at Pechanga Parkway over Temecula Creek, and has donated more than \$14 million to local schools and hundreds of regional charitable organizations; and

WHEREAS, in addition to the Gaming Facility, which has become a major tourist attraction and brings millions of dollars into the local community, the Tribe has successfully developed on its lands other economic development or governmental projects that service the Tribe and the community, including a convenience store, golf course, cultural center, museum, gas station, car wash and RV park; and

WHEREAS, the Compact requires that before commencement of a "Project," as defined in the Compact, the Tribe must engage in certain specified environmental review processes and further provides for the Tribe and any impacted city or county to enter into an enforceable, written "Intergovernmental Agreement" for mitigation of off-reservation environmental impacts, public safety services, and other necessary programs attributable to the Project; and

WHEREAS, the Parties recognize that this Agreement therefore is an important and mutually beneficial means for furthering the government-to-government relationship between the Parties and in building trust, mutual respect, good will and cooperation for the benefit of the entire community; and

WHEREAS, the Tribe now anticipates commencing a Project, as defined by the Compact, further defined below as the "Hotel Expansion." In accordance with its obligations under the Compact, the Tribe has properly submitted a Notice of Preparation of the Draft Tribal Environmental Impact Report ("TEIR"), issued the Notice of Completion of the Draft TEIR, satisfied the forty-five (45) day public comment period, and formally offered to begin negotiations of the Intergovernmental Agreement with the County; and

WHEREAS, the Tribe's Hotel Expansion will include the development of new resort facilities only, which shall not exceed the scope of the project described in the Final Tribal Environmental Impact Report, including a new hotel wing; events center and meeting space; detached spa, salon, and fitness center; resort pool area, multi-use outdoor area; and warehouse storage; and parking improvements. All proposed development is located on the Tribe's Reservation within a previously disturbed 54-acre Project site. The new hotel wing is expected to include two connected towers (one 9-story tower and one 13-story tower) with approximately 568 hotel rooms, additional meeting rooms and restaurant space that will be connected to the existing Pechanga Resort and Casino. The events center is expected to have a ballroom with a

capacity of 3,000 seats, adjoining indoor and outdoor space, as well as a green roof. Total indoor building floor area for all new uses, including below grade area, is approximately 800,000 square feet. The Hotel Expansion includes 25,000 square feet of tenant improvements to existing building facilities and reconfiguration of internal access roads, parking, and site utilities.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

SECTION 1. PURPOSE OF AGREEMENT

1.1. The purpose of this Agreement is to set forth certain agreements of the Parties that are intended to:

a. Assure the implementation of measures for mitigating the off-reservation impacts of the Hotel Expansion, as set forth in this Agreement;

b. Establish a mutually agreeable process to identify and mitigate potential off-reservation environmental impacts of the Hotel Expansion;

c. Identify the process to resolve disputes that may arise between the County and the Tribe under this Agreement;

d. Create a framework for continuing to build and maintain a mutually beneficial government-to-government relationship between the Tribe and the County; and

e. Identify ways for the Tribe and the County to work together to provide additional services and benefits to the Tribal community and the County.

SECTION 2. DEFINITIONS. Capitalized words not otherwise specifically defined in this Agreement shall have the definitions of such words as may be set forth in the Compact. The following terms shall be defined in this Agreement as set forth in this Section:

2.1. "Agreement" means this agreement, which shall be deemed to be the Intergovernmental Agreement between the Parties as required under Section 10.8.8 of the Compact.

2.2. "Compact" means the Tribal-State Compact between the State of California and the Tribe entered into on or about September 10, 1999, and effective in May 2000, and amended effective March 2008.

2.3. "County" means Riverside County, California.

2.4. "Effective Date" means the date this Agreement is executed by both Parties and so designated above in the introduction to this Agreement.

2.5. "Gaming Device" means a Gaming Device as defined in Section 2.6 of the Compact.

2.6. "Gaming Facility" means: (1) the gaming facility and hotel existing on the date of this Agreement that are located on the Reservation and consisting of approximately two hundred thousand (200,000±) square feet of gaming space plus back of the house and administrative offices and facilities that can accommodate various gaming and casino activities, including up to five thousand (5,000) Gaming Devices, employee rooms, offices and related space; a thirteen story hotel with five hundred twenty-two (522) guest rooms and supporting kitchens, offices, retail, housekeeping, telecommunications and other utility facilities; maintenance and storage spaces; convention, ballroom, classroom and meeting spaces; restaurants, bars, food courts, night clubs, retail spaces, lounges, regulatory, public safety, surveillance and guest services amenities and facilities; a one thousand two hundred (1,200) seat theater; swimming and Jacuzzi pools, porte cocheres, spa facilities and related areas located outside the hotel; surface parking and three parking structures for buses, trucks, SUVs and similar vehicles and automobiles, that can accommodate approximately eight thousand six hundred (8,600) vehicles; and related common areas, roadways, sidewalks, storage and administrative facilities; all of which primarily serve the Gaming Facility; and (2) the Hotel Expansion.

2.7. "Hotel Expansion" means the development of new resort facilities only, which shall not exceed the scope of the project described in the Final Tribal Environmental Impact Report, including a new hotel wing; events center and meeting space; detached spa, salon, and fitness center; resort pool area, multi-use outdoor area; warehouse storage; and parking improvements. All proposed development is located on the Tribe's Reservation within a previously disturbed 54-acre Project site. The new hotel wing is expected to include two connected towers (one 9-story tower and one 13-story tower) with approximately 568 hotel rooms, additional meeting rooms and restaurant space that will be connected to the existing Pechanga Resort and Casino. The events center is expected to have a ballroom with a capacity of 3,000 seats, adjoining indoor and outdoor space, as well as a green roof. Total indoor building floor area for all new uses, including below grade area, is approximately 800,000 square feet. The Hotel Expansion includes 25,000 square feet of tenant improvements to existing building facilities and reconfiguration of internal access roads, parking, and site utilities.

2.8. "IGRA" means the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.*

2.9. "Mitigation Measures" means the Tribe's obligations and payments set forth in Section 3.3 below, which shall provide final mitigation with respect to the Hotel Expansion.

2.10. "Reservation" means those lands held in trust by the federal government for the benefit of the Tribe, including but not limited to the lands on which the Gaming Facility is located.

2.11. "Project" means an activity defined as a "Project" in Section 10.8.7 of the Compact.

2.12. "Significant Effect on the Environment" shall be as defined in Section 10.8.7 (b) of the Compact as a Significant Effect on the off-reservation Environment.

2.13. "Tribal Environmental Impact Report" or "TEIR" is the report described in, and subject to, Section 10.8.1 of the Compact.

2.14. "Tribe" means the Pechanga Band of Luiseño Indians, a federally recognized Indian tribe.

2.15. "Term" means the term of this Agreement as provided in Section 12.7 of this Agreement.

SECTION 3. HOTEL EXPANSION MITIGATION MEASURES

3.1. Existing Gaming Facility. The Parties acknowledge that the establishment of the Gaming Facility creates off-reservation impacts, including but not limited to the generation of vehicle traffic and traffic-related events, law enforcement services, fire and emergency medical services, noise and light and related factors, and other effects. The Parties also acknowledge that the Gaming Facility has provided substantial benefits to the Tribal, County, and surrounding communities, including increased employment, an important market for local vendors, and an attraction for patrons, tourists and revenues from out of the area, and is anticipated to continue to do so in the future.

3.2. Hotel Expansion Intergovernmental Agreement.

a. The Parties recognize that both the positive and negative effects of the Hotel Expansion on the interests of the Parties may be difficult to quantify, but in the government-to-government spirit that underlies this Agreement, and in order to address any off-reservation effects of the Hotel Expansion and resolve differences of opinions between the Tribe and the County as to the extent and materiality of any such effects, the Parties have agreed to add certain mitigation measures that take all of those positive and negative effects into account. The mitigation measures embodied in this Agreement, including but not limited to the Mitigation Measures, and this Agreement itself, are intended to constitute the Intergovernmental Agreement between the Tribe and the County to the extent required under Section 10.8.8 of the Compact with respect to the Hotel Expansion.

b. The Tribe and the County agree that any Significant Effects on the Environment from the Hotel Expansion will be adequately mitigated by the Tribe as required by the Compact through its mitigation efforts identified in the Final Tribal Environmental Impact Report ("TEIR") this Agreement and through the Mitigation Measures provided in Section 3.3 of this Agreement.

3.3. Mitigation Measures. As agreed upon by the Parties, the Tribe shall undertake the following Mitigation Measures:

a. Riverside County District Attorney's Office – For the term of this Agreement, the Tribe shall provide annual funding in the amount of Forty-Five Thousand Dollars (\$45,000.00) to the District Attorney's office to compensate the incremental impacts of the Hotel Expansion. This amount is approximately 20 percent (20%) of one fully burdened Deputy DA IV position, and it shall be adjusted upward or downward in accordance with the percentage increase or decrease in the County's actual cost for 20% of one fully burdened District Attorney IV position for the period of July 1 of one year to June 30 of the following year beginning with the base year of July 1, 2015 to June 30, 2016. Payments shall be made as follows: The first payment for DA services shall be made on or before December 31, 2016, in the amount of

\$22,500. This first payment is the prorated equivalent of one half (1/2) of the agreed upon \$45,000.00 and shall be payment for the period of January 1, 2017 to June 30, 2017. The second payment for law enforcement services shall be made on or before June 30, 2017, in the full amount of \$45,000.00 and shall be payment for the period of July 1, 2017 to June 30, 2018. Each subsequent payment for law enforcement services shall be made on or before June 1 of each year thereafter in the amount of \$45,000.00, as may be adjusted in accordance with this provision, for the Term of this Agreement. The County shall provide the Tribe an annual report of District Attorney case load related to matters directly arising from Pechanga's Gaming Facility.

b. Law Enforcement – For the Term of this Agreement, the Tribe shall provide annual funding for County law enforcement services in the amount of Two Hundred and Eighty-Nine Thousand Dollars (\$289,000.00). This amount shall be adjusted upward or downward in accordance with the percentage increase or decrease in the County's fully burdened cost of law enforcement services provided by one (1) sworn peace officer for the period of July 1 of one year to June 30 of the following year beginning with the base year of July 1, 2015 to June 30, 2016. Payments shall be made as follows: The first payment for law enforcement services shall be made on or before December 31, 2016, in the amount of One Hundred Forty-Four Thousand and Five Hundred Dollars (\$144,500.00). This first payment is the prorated equivalent of one half (1/2) of the agreed upon \$289,000.00 and shall be payment for the period of January 1, 2017 to June 30, 2017. The second payment for law enforcement services shall be made on or before June 30, 2017, in the full amount of \$289,000.00 and shall be payment for the period of July 1, 2017 to June 30, 2018. Each subsequent payment for law enforcement services shall be made on or before June 1 of each year thereafter in the amount of \$289,000.00, as may be adjusted in accordance with this provision, for the Term of this Agreement. To ensure accuracy of payments, the County shall provide the Tribe an itemized invoice of the County's actual cost for a fully burdened sworn peace officer for the payment period.

c. Traffic – The Tribe agrees to participate in future government-to-government discussions with the City of Temecula, County of Riverside, and Caltrans about regional transportation improvements.

3.4. Fire and Emergency Services.

a. The Parties acknowledge that the Tribe's development, construction, operation and maintenance of the Gaming Facility require fire protection and emergency response services. Much of that need is fulfilled by the construction and operation of the Tribe's own fire department on the Reservation. Nevertheless, from time to time, the fire protection and emergency response services available from the Tribe's own departments may require supplemental services from the County.

b. The Tribe and the County shall cooperate on a government-to-government basis to promote public safety and to provide the Tribe with such mutual aid and automatic aid for supplemental fire and emergency services, on a cooperative basis, as is offered to neighboring cities and unincorporated County areas. At present, a mutual aid agreement exists between the Tribe and the appropriate agencies concerning fire and emergency services. If necessary, the Parties agree to diligently and in good faith negotiate a more detailed mutual aid

and automatic aid agreement, similar in its terms to those between the Tribe and other jurisdictions, to further implement the intent of this Section that the County and the Tribe cooperate in providing effective and efficient fire and emergency services to the Gaming Facility and the surrounding community.

c. The Tribe has in place an emergency preparedness plan that addresses evacuation and access issues. The County and Tribe shall consult and coordinate services to further develop the plan and to prepare to respond to any emergency at the Pechanga Resort & Casino.

3.5. Meet and Confer Concerning Further Public Safety and Community Programs.

a. Both the Tribe and the County agree that it is in their respective best interests to develop and fund further public safety and community enhancement programs in and around the Gaming Facility. There are many federal and state programs to enhance public safety and community enhancement that the Tribe and the County can take advantage of in a cooperative joint application for those funds. Therefore, the Parties agree that they will continue to meet and confer in good faith in an effort to seek sources of funding and cooperative programs to enhance public safety and the community and to work towards approval of these programs by the opening of the Hotel Expansion.

b. The Parties further agree that in the event new sources of funding from Indian Gaming become available for local governments, either through the Indian Gaming Special Distribution Fund, a similar grant process, or a new system of funding specific to the Tribe's gaming activities, the Tribe will work with the County in good-faith to identify and allocate funding for services, programs, or projects that mutually benefit the Tribe and County.

3.6. Regular Meetings of the Parties. In an effort to maintain and promote good government-to-government relations between the Tribe and the County, the Parties' designated representatives shall meet on a regular basis, every six (6) months to discuss issues of mutual interest.

SECTION 4. FUTURE ENVIRONMENTAL REVIEW AND MEASURES

4.1. For any future changes to the Gaming Facility, the Parties agree to follow the requirements of the State Gaming Compact then in place. The Parties agree and commit to having continued dialogue with regard to mutual collaboration on future governmental projects benefiting both the Tribe and County in the areas of roadway infrastructure, law enforcement, public safety and other such programs as may be feasible.

SECTION 5. EFFECT OF FEDERAL LAWS REGARDING ENVIRONMENTAL MATTERS

5.1. Notwithstanding any provision to the contrary, the Parties acknowledge that the Tribe is subject to federal laws and regulations regarding the environment and health and safety, including but not limited to the Clean Water Act, Safe Drinking Water Act, Endangered Species Act, Indian Gaming Regulatory Act, and Occupational Safety and Health Act, and permit conditions including but not limited to conditions in any National Pollution Discharge Elimination System permits. Except as provided below, the Parties agree that the matters

regulated by these laws, regulations, and permits shall be matters that are between the Tribe and the federal agency having jurisdiction over such statutes, regulations, and permits, and a violation of such statutes, regulations, and permits shall not be considered in conflict with this Agreement or a required part of it. Consistent with the above, the County shall retain whatever rights it may have with respect to participation in the matters regulated by these laws, regulations, and permits, including without limitation, the rights to take such administrative or legal actions as may be necessary to protect its rights in accordance with the statutes and regulations applicable to the federal agency conducting the proceedings, shall be deemed to have waived any right it might otherwise have under this Agreement to compel arbitration or meet the County's concerns about that aspect of the Project under this Agreement.

5.2. Any dispute or disagreement the County has with a federal process or its outcome thus shall only be subject to the remedies available in such process and not through the dispute resolution or other provisions of this Agreement.

5.3. Nothing herein shall be construed as limiting the Parties' respective rights to reach agreement on a voluntary basis with each other over such matters outside such federal process, subject to applicable law and the sole discretion of each Party as to whether or not to negotiate or agree on such matters outside the context of the federal process itself.

SECTION 6. CONFIDENTIALITY OF FINANCIAL INFORMATION

6.1. To the extent authorized by the California Public Records Act (Government Code Section 6250, *et seq.*), and subject to all provisions of such Act, the Parties agree that confidential financial information concerning the Gaming Facility shall be deemed confidential and shall not be shared with any third party.

6.2. Prior to providing such information to the County, or permitting the County access to such information, but without implying that providing such access or information is necessarily required, the Tribe shall notify the County in writing that such information is confidential or proprietary.

6.3. The County shall promptly provide the Tribe notice of any Public Records Act request related to this Agreement and shall afford the Tribe, within the time limits allowed under the Act, an opportunity to seek an injunction by the Court against any such disclosure.

SECTION 7. DISPUTE RESOLUTION

7.1. Meet and Confer Process. In recognition of the government-to-government relationship between the Tribe and the County, the Parties shall make their best efforts to resolve disputes that occur under this Agreement by good faith negotiations whenever possible. Therefore, the Parties hereby establish a threshold requirement that disputes arising under this Agreement shall first be subject to a good faith meet and confer procedure to give the Parties an opportunity to work together to solve identified issues.

7.2. Disputes arising between the Parties regarding a Party's alleged failure to meet its obligations imposed by this Agreement, including a refusal to meet and confer, shall be addressed through the same process as is outlined in the Compact for resolution of disputes

between the Tribe and the State in Section 10.8.9 of the Compact, and as may be revised in future approved amendments of the Compact.

SECTION 8. JUDICIAL REVIEW AND ENFORCEMENT

8.1. The Parties agree that the prevailing party in any arbitration hereof may seek to confirm and enforce any arbitration award that has become final by filing a petition with any Superior Court in the State of California, pursuant to the provisions of California Code of Civil Procedure, Section 1285, *et seq.* In any arbitration or court action, each Party shall bear its own costs and attorneys' fees in any court action or arbitration proceeding brought pursuant to this Agreement.

8.2. Nothing in this Agreement shall preclude or restrict the ability of Parties to voluntarily pursue, by mutual agreement, any other method of dispute resolution.

SECTION 9. NOTICES

9.1. Notices pursuant to this Agreement and service of process in any judicial or arbitration proceeding is waived in favor of delivery of documents by (i) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery or (ii) by Certified Mail – Return Receipt Requested to the following:

9.2. For the Tribe:

Tribal Chairperson
Pechanga Band of Luiseño Indians
12705 Pechanga Road
Temecula, CA 92592
Tel: 951-676-2768

With a copy simultaneously delivered to:

General Counsel
Pechanga Office of General Counsel
12705 Pechanga Road
Temecula, CA 92592
Tel: 951-770-6171

9.3. For the County:

County Executive Officer
Riverside County Executive Office
4080 Lemon St., 4th Floor
Riverside, CA 92501
Tel: (951) 955-1110

With copy simultaneously delivered to:

County Counsel
County of Riverside Office of County Counsel
3960 Orange St., Suite 500
Riverside, CA 92501
Tel: 951-955-6300

9.4. Either Party may change the names and address to which notices and service of process may be delivered by written notice to such persons as listed in the subsection or by subsequent notice of changes.

SECTION 10. MUTUAL LIMITED WAIVER OF SOVEREIGN IMMUNITY

10.1. The Parties agree that the Parties' waiver of immunity from arbitration or suit, or the enforcement of any order or judgment related thereto, is limited to the express provisions of Sections 7 and 8 of this Agreement, and neither the agreement to arbitrate nor any other provision of this Agreement shall be construed as creating any implied waiver of such immunity.

10.2. The Parties each expressly covenant and agree that they may each sue and be sued, including the resolution of disputes in arbitration and the judicial enforcement thereof, as provided in Sections 7 and 8 above, to resolve any controversy arising from this Agreement or to enforce or interpret the terms and conditions of this Agreement, as provided for in this Agreement. The Parties, their officers and agents expressly agree to waive governmental immunities, including sovereign immunity, in connection with any claims arising from this Agreement, as provided for herein for the enforcement of any arbitration award, or judgment to enforce such an award, or enforcement of any easement created as a result of this Agreement. The Parties further consent to the jurisdiction of an arbitrator and/or specified court under this Agreement including the consent to be sued and bound by a lawful order or judgment, to the extent provided for herein. Each of the Parties represent that its agreement to such dispute resolution processes and waivers has been effectively and lawfully granted and that nothing further needs to be done to effectuate those processes.

10.3. With respect to any action arising out of the Agreement for which there is a waiver of sovereign immunity, the Tribe and County expressly consent to the jurisdiction of the United States District Court for the Central District of California and, as limited herein to, the Superior Court of the State of California for Riverside County and all related appellate courts, and/or an arbitrator selected pursuant to this Agreement and specifically waive sovereign immunity for that purpose. The Parties specifically agree that the applicable court shall have jurisdiction to enter judgments enforcing rights and remedies provided for in this Agreement which shall be binding and enforceable on the Parties, subject to the limitations set forth in this Agreement. No Party to this Agreement shall contest jurisdiction or venue of the above-referenced courts, provided their jurisdiction and venue are invoked in the order specified, but only for disputes or claims arising out of this Agreement. Neither the Tribe nor the County shall plead or invoke the doctrine of exhaustion of Tribal or other administrative remedies, defenses of immunity or indispensable Parties beyond those contemplated in this Agreement.

10.4. The County and the Tribe may not join or consent to the joinder of any third party to any action (including but not limited to any arbitration) contemplated herein, unless failure to

join such party would deprive the court or arbitration tribunal of jurisdiction; provided that nothing in this Agreement shall be construed to constitute a waiver of the sovereign immunity or other protection from lawsuit (or other dispute resolution process), or the effect, orders or judgments thereof, of either the Tribe or the County with respect to any claim of any kind by any such third party. In the event of intervention by any third party into any such action without the consent of the Tribe and the County, nothing herein shall be construed to constitute a waiver of any immunity with respect to such third party, and no arbitrator or court shall have jurisdiction to award any relief or issue any order as against the County or Tribe with respect to such third party in that or any other proceeding.

SECTION 11. REVIEW UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT NOT REQUIRED

11.1. Pursuant to Government Code Section 12012.49, and in deference to tribal sovereignty, the approval and execution of this Agreement by the Parties is not a project within the meaning of the California Environmental Quality Act, California Public Resources Code Sections 21000, *et seq.* ("CEQA") because this Agreement has been negotiated pursuant to the express authority of the Compact, specifically Section 10.8.8 of the Compact, and because the Agreement only establishes a source of funds for potential future County actions that are otherwise required as a matter of law and does not itself approve any development, including the Hotel Expansion or the Project.

SECTION 12. MISCELLANEOUS PROVISIONS

12.1. No 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 Tribe's obligation to comply with the National Environmental Policy Act (NEPA) as may be required as part of any trust application or any other Project requirement.

12.2. No Third Party Beneficiaries. This Agreement is not intended to, and shall not be construed to, create any right on the part of a third party including, without limitation, no rights in any Interested Persons, nor does it create any private right of action for any third party nor permit any third party to bring an action to enforce any of its terms.

12.3. Final Agreement. This Agreement contains the entire Intergovernmental Agreement of the Parties as to the subject matter herein and supersedes any other agreements of the Parties to the contrary. However, this Agreement shall not prohibit any future agreements contemplated by the Parties. The Agreement is intended both as the final expression of the agreement between the Parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement consistent with California Code of Civil Procedure section 1856. No modification or amendment of this Agreement shall be effective unless and until such modification or amendment is evidenced by a writing approved and signed by the Parties.

12.4. Severability of Provisions. The invalidity of any provisions or portion of this Agreement as determined by a court of competent jurisdiction or any State or federal agency having jurisdiction and thereof and the authority to do so, shall not affect the validity of any other provisions of this Agreement or the remaining portions of the applicable provisions, unless such provision is material to the reasonable expectation of the Parties. Without limiting the foregoing, if any provision of the Agreement is declared invalid as aforesaid, then the Parties shall use their best efforts to renegotiate the terms of the invalid provisions.

12.5. Force Majeure. The Parties shall not be liable for any failure to perform, or for delay in performance of a Party's obligations, and such performance shall be excused for the period of the delay and the period of the performance shall be extended when a force majeure event occurs; provided however that the party whose performance is prevented or delayed by such event of force majeure shall give prompt written notice (i.e., within seventy-two (72) hours of the event) of such event to the other party. For purposes of this Section, the term "force majeure" shall include, without limitation, war, epidemic, rebellion, riot, civil disturbance, earthquake, fire, flood, acts of governmental authorities (other than the County or Tribe), acts of God, acts of terrorism (whether actual or threatened), acts of the public enemy and in general, any other severe causes or conditions beyond the reasonable control of the Parties, the consequences of which in each case, by exercise of due foresight such party could not reasonably have been expected to avoid, and which by the exercise of due diligence it would not have been able to overcome, when such an event prevents the Tribe from performing at a level sufficient to meet its obligations under this Agreement due to substantial changes in the Tribe's ability to offer gaming activities at the current level, ceasing the gaming or hotel operations for an extended period, or prevents the County from meeting its obligations under this Agreement due to an interruption of County government operations. An interruption of performance, or the delayed occurrence of any event, under this Agreement caused by an event of force majeure shall as far as practical be remedied with all reasonable dispatch. During any period in which a party is excused from performance by reason of the occurrence of an event of force majeure, the party so excused shall promptly, diligently, and in good faith take all reasonable action required in order for it to be able to commence or resume performance of its obligations under this Agreement.

12.6. Governing Law. This Agreement shall be construed according to applicable federal and California substantive law to the extent not inconsistent with the express provisions of this Agreement, unless federal law as to the Tribe or the County, or California law as to the County, prohibits the Parties from abiding by such express provision, in which case the provision will be deemed to be invalid and resolved, if possible, under the severability provisions in Section 13.5. Notwithstanding the foregoing, California rules of construction shall be applied in interpreting this Agreement. This Agreement shall be deemed to have been drafted jointly by the Parties and shall not be construed as having been drafted by, or construed against, one party against another.

12.7. Term; Obligations to Continue. The Term of this Agreement shall be from the Effective Date until the expiration or termination of the Compact as now exists or as may be amended, restated, or extended by the Tribe and the State to provide for the use of Gaming Devices at the Gaming Facility, unless sooner terminated pursuant to the terms of this Agreement or extended by mutual agreement of the Parties. Unless specifically designated

otherwise, all of the Parties' obligations under this Agreement shall continue through the Term, including any extensions thereof. Notwithstanding the end of the Term, any covenant, term or provision of this Agreement which, in order to be effective, or is necessary to enforce an unfulfilled material term of this Agreement or obligation that may continue beyond the end of the Term shall survive termination.

12.8. Representations. By entering into this Agreement each signatory represents that, as of the Effective Date, the undersigned has the authority to execute this Agreement on behalf of their respective governing bodies.

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

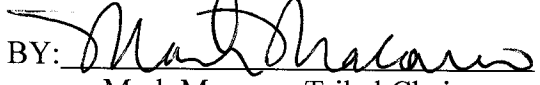
12.10. Approval. Each Party's execution, delivery and performance of this Agreement shall be approved by each Party's respective governing body, which shall provide that the Party shall not enact a law impairing the rights and obligations under this Agreement.

12.11. 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.

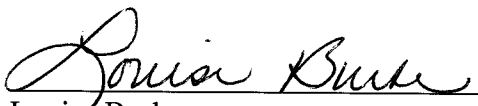
12.12. Authority/Authorization. The County and Tribe each represent and warrant that each has performed all acts precedent to adoption of this Agreement, including but not limited to matters of procedure and notice and each has the full power and authority to execute this Agreement and perform its obligations in accordance with the above terms and conditions, and that the representative(s) executing this Agreement on behalf of each Party is duly authorized to so execute and deliver the Agreement.

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

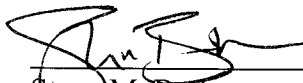
PECHANGA BAND OF LUISEÑO INDIANS

BY: 
Mark Macarro, Tribal Chairperson
Pechanga Band of Luiseño Indians

Attest


Louise Burke
Tribal Secretary

Approved as to Form:


Steve M. Bodmer
General Counsel

COUNTY OF RIVERSIDE

By: Marion Ashley
Marion Ashley, Chairman
Board of Supervisors

ATTEST:
Kecia Harper-Ihem
Clerk of the Board

By: Kecia Harper-Ihem
Deputy

APPROVED AS TO FORM:
Gregory P. Priamos, County Counsel

By: MR al
Melissa R. Cushman
Deputy County Counsel