

**MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("MOU") is entered into as of this 16<sup>th</sup> day of January, 2001, by and between the TUOLUMNE RANCHERIA BAND OF ME-WUK INDIANS, a federally recognized Indian tribe ("Tribe"), and the COUNTY OF TUOLUMNE, a political subdivision of the State of California ("County") and the TUOLUMNE FIRE PROTECTION DISTRICT, a State of California Special District ("Fire").

**1.0 INTRODUCTION**

- 1.1 The Tribe is a federally recognized Indian tribe which occupies a reservation ("Rancheria") within County's geographic boundaries.
- 1.2 Under the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. § 2701, *et seq.* ("IGRA"), the Tribe may engage in gaming as a means of raising tribal revenues and achieving self-sufficiency. Certain kinds of gaming, particularly activity defined as "Class III gaming," require that the Tribe enter into a Tribal-State Class III Gaming Compact with the State of California ("Compact").
- 1.3 In May 2000, a Compact executed between the Tribe and the State of California in September 1999 became legally effective. Among other things, the Compact authorizes the Tribe to engage in Class III gaming under IGRA and requires the Tribe to meet and confer with local governments on a government-to-government basis with respect to the construction and operation of a gaming project pursuant to the Compact.
- 1.4 The Tribe has determined that the kind of gaming project envisioned in the Compact would assist it in developing and funding tribal governmental programs which address the educational, elderly, medical, job training and employment needs of the tribe, as well as funding other tribal governmental programs and benefits. Without a gaming project, such programs and benefits generally would be unavailable to the Tribe or its members, or if available, would only be provided from federal governmental sources that would render the Tribe dependent and insufficiently funded. The Tribe and its members desire to be economically viable and self-sufficient, and the kind of gaming project anticipated in this MOU and under the Compact provides the tribe with that opportunity. Accordingly, the Tribe has determined that it is in its and its members' best interest to create and operate a tribal gaming project on its reservation ("project") in order to assist the tribe in reaching its economic needs and goal.
- 1.5 Because of certain provisions of the Compact, Tribe desires to open an initial gaming facility on or before May 14, 2001.

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- 1.6 The Tribe desires to operate its gaming project in a manner that benefits the Tribe, its members and the community as a whole, and the County recognizes the mutual benefit that can be derived if that goal is achieved. Accordingly, the Tribe and the County have participated in a series of meetings with each other to hear and consider the ways in which each government can assist the other in making the project one that is mutually beneficial while being consistent with the Tribe's governmental needs.
- 1.7 This MOU embodies the concepts and agreements developed by the Tribe and the County to date as a result of those meetings and continuing dialogue, and is intended to legally bind the parties to the obligations and government-to-government framework created in this document, so that the Project may better serve the mutual interests of the Tribe and the County and their communities.

### **NOW, THEREFORE, THE PARTIES HAVE REACHED THE FOLLOWING UNDERSTANDINGS:**

#### **2.0 DESCRIPTION OF PROJECT**

- 2.1 Class III gaming will be conducted only on Rancheria land which the United States held in trust for the Tribe as of October 17, 1988, or on land which otherwise qualifies for Class III gaming under IGRA Section 20, 25 U.S.C. § 2719.
- 2.2 The proposed site consists of three (3) acres of the Tuolumne Rancheria acquired and held in trust for the Tribe prior to October 17, 1988 and located on Tuolumne Road North, near the community of Tuolumne ("Site").
- 2.3 The project will be developed in two phases:
  - 2.3.1 *Phase I* will consist of an approximately 22,500 square foot casino, to be opened by May 14, 2001. The facility will house gaming devices, gaming tables (for permitted house banked and non-banked card games), a restaurant and service and support areas. Parking will be located on the project site, or as otherwise reviewed and assessed in the Draft Environmental Study for the project prepared for the Tribe by Mooney & Associates ("ES"), discussed at Section 3 of this MOU. The casino itself will be a temporary metal structure which can be moved when *Phase II* is completed.
  - 2.3.2 *Phase II* will be a 128,500 square foot two (2) story entertainment facility located where parking is planned for the *Phase I* facility. The *Phase II* facility will offer approximately the same quantity of gaming as in the *Phase I* facility, but will have added amenities such as an entertainment

lounge, fine dining restaurant, bowling alley, coffee shop, bakery and additional tribal administrative offices. Customer parking for the *Phase II* facility will utilize land owned by the tribe and contiguous to the site (but at the rear of the site, away from the main highway), since the expanded *Phase II* facility will be on the portion of the trust site which will be used for parking during *Phase I*. The contiguous land is not held in trust. Parallel efforts to place the contiguous land in trust and obtain a General Plan amendment to comply with local land use designations are underway. There are no plans to conduct Class III gaming on the contiguous land, even if it is accepted into trust by the Secretary of the Interior, but should the Tribe desire to do so, the parties will meet and negotiate in good faith to amend this agreement with respect to any way in which such gaming places additional burdens on the County and Fire.

- 2.4 Further details regarding the Project description, including site plans, floor plans and elevations, are set forth in the ES. See Section 3.0, below.

### **3.0 ENVIRONMENTAL STUDY**

- 3.1 Pursuant to Section 10.8 of the Compact, the Tribe adopted the Tuolumne Off-Reservation Impact Ordinance, which addresses the process for reviewing any off reservation environmental impacts of the Project. In accordance with that Ordinance, the ES has been prepared and circulated to various state and local governmental agencies and has been disseminated to the public, and comments have been invited and considered by the Tribe.
- 3.2 In addition to the formal process outlined in the Ordinance, early informational meetings between the Tribe and various local agencies have been held, including the Tuolumne Sanitary District, Tuolumne Utilities District, Tuolumne Fire Protection District and Tuolumne County Fire Department. Many of the comments from those agencies are reflected in the understandings set forth in this MOU and in the mitigation measures described in the ES.

### **4.0 FORMAT OF MOU**

- 4.1 This MOU sets forth the various understandings between the Tribe and the specific County agencies identified in the appropriate sections below, which are organized by subject matter.

### **5.0 LAW ENFORCEMENT**

- 5.1 The following represents understandings reached with the Tuolumne County Sheriff's Department. Understandings and protocols reached with the Office of the District Attorney for Tuolumne County regarding prosecution of crimes in

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connection with the Project are addressed in Section 6, below.

- 5.2** The parties recognize that the Tribe and the Sheriff have concurrent responsibility for maintaining order and safety on the reservation (i.e., the Tribe through its inherent sovereign authority and the Sheriff through Public Law 280). Procedures will be developed that cover the turnover of persons apprehended and arrested for criminal activity by Tribal Project Security personnel.
- 5.3** To meet security needs, the Tribe agrees to provide an adequate level of on-site security staff that shall be on duty during all hours of project operations. The Tribe shall meet and confer with the Sheriff's Department to determine reasonable staffing and training needs. The Sheriff's Department will assist with training in basic security subjects (i.e., turnover procedures, report writing, use of force, etc.) provided that staffing at the Sheriff's Department allows for such assistance. The Tribe shall pay all reasonable costs incurred by the County for training the Tribe's personnel in such programs. The Sheriff's Department shall present the Tribe with a budget for such training and obtain the Tribe's approval before incurring any costs in connection therewith.
- 5.4** The parties recognize that the increase in traffic and attendance connected with the Project will create added burdens on the Sheriff's Department in terms of patrolling and responding to calls for assistance. Because some of that activity will take place on the Rancheria, special training and staffing assignments by the Sheriff's Department will be required. It is expected that cross training in the mutual roles of both the Tribe and Sheriff's Department will be necessary. In order to meet these increased burdens, the Tribe and County have agreed as follows:

  - 5.4.1** The Tribe hereby consents to the entry of the Sheriff's Department on the Project site for purposes of providing those routine law enforcement services as to which entry is required under Public Law 280, and in other circumstances as may be permitted under procedures developed under Section 5.4.4, below. The Sheriff's Department shall seek the Tribe's permission to enter onto the project site for purposes other than such routine services, pursuant to the notification and permission procedures developed under Section 5.4.4, below. For the purposes of this MOU, the County agrees that the Sheriff will confer the powers to enforce laws and ordinances within the County upon the appropriately trained and certified personnel of the Tribe's law enforcement and security department personnel.
  - 5.4.2** The Sheriff's Department agrees to assist the Tribe with the cross-training required to provide a smooth and effective working relationship. The Sheriff's Department will assist the Tribe as needed to review written

policies and guidelines for Tribal security operations, expectations for Tribal security officers to interface effectively and smoothly with Sheriff's Department operations, and the review of written policies and guidelines for Tribal security operations.

**5.4.3** To help offset the added cost of such training, patrolling and response services by the Sheriff's department, the Tribe has agreed to reimburse the Sheriff's Department, as follows:

- a) For *Phase I*, the sum of Two Hundred Thousand Dollars (\$200,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year beginning January 1, 2001, and continuing until the commencement of operation of *Phase II*. The January 1, 2001 payment shall be paid as follows:
  - 1) The sum of One Hundred Thousand Dollars (\$100,000.00) to be paid on or before May 1, 2001, and
  - 2) The balance of One Hundred Thousand Dollars (\$100,000.00) to be paid on or before June 1, 2001.
- b) Upon commencement of operation of *Phase II*, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year. The Tribe shall pay its pro rata increased share of said amount within ten (10) days of commencement of operation of *Phase II*, and
- c) On the fourth January 1<sup>st</sup> after commencement of operation of *Phase II*, the Tribe shall pay the sum of Three Hundred Thousand Dollars (\$300,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year for as long as the Project is in operation.

**5.4.4** The parties shall begin meeting and conferring immediately, and shall continue doing so at least once a month thereafter, to discuss the implementation of policy, procedure, and protocol for the smooth and effective interface of the Tribe and Sheriff's Department in the provision and maintenance of safety and law enforcement to the Project. Protocols to be developed include responding to calls for service at the Project, and appropriate interaction between the Sheriff's Department and Project security personnel. Protocols shall also include the proper handling and

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preservation of evidence, particularly with respect to the preparation and protection of surveillance tapes, incident reports, witness statements, and patrol and arrest procedures, all of which shall be coordinated with the Office of the District Attorney for Tuolumne County in light of the Tribe's and County's respective jurisdictions and the fact that the Project is located in a Public Law 280 state. *See* Section 6 below.

### **6.0 PROSECUTION**

- 6.1** All prosecutions for violations of law at the Project site and within the casino facility itself shall be conducted by the District Attorney for Tuolumne County in state court without regard to whether the charges are filed against Indians (including members of the Tribe) or non-Indians, except as such distinctions are recognized under law.
- 6.2** The Tribe shall have the right to name a liaison person with whom the District Attorney for Tuolumne County may consult with regarding such prosecutions, but prosecutorial decisions and strategies shall be exclusively within the discretion of the District Attorney for Tuolumne County.

### **7.0 FIRE SERVICES**

- 7.1** The Tribe shall consult with the Tuolumne County Fire Prevention Bureau regarding design of the Project facilities to ensure that adequate fire prevention and protection methods are being provided and maintained throughout the operation of the project. The project shall conform to applicable 1997 Uniform Building Codes, California Fire Codes, Tuolumne County Ordinance Code on fire related matters, or other recognized standards to which the Tribe and the Tuolumne County Fire Prevention Bureau shall agree.
- 7.2** The Tuolumne County Fire Prevention Bureau shall provide on-going inspections during construction and advise the Tribe on a voluntary, non-jurisdictional basis. After the completion of construction, the Tuolumne County Fire Prevention Bureau will conduct two Fire and Life Safety Inspections annually. The inspection fees provided for in Chapter 3.40 of the Tuolumne County Ordinance Code shall be paid to the Tuolumne County Fire Prevention Bureau at the time of each inspection. The Tuolumne Fire Protection District or the Tuolumne County Fire Department may accompany the Fire Prevention Bureau on inspections.
- 7.3** The Tribe recognizes that significant fire protection and emergency response services will be required by the Project and that there will be an impact on the community which the Tribe shall mitigate. The parties have agreed to the following as mitigation of those impacts:

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**7.3.1** To help offset the added cost of fire protection and emergency response services, the Tribe has agreed to mitigate those added costs as follows:

- a) For *Phase I*, the Tribe shall pay to the Tuolumne Fire Protection District the sum of Three Hundred Thousand Dollars (\$300,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year beginning January 1, 2001, and continuing until the commencement of operation of *Phase II*. The January 1, 2001 payment shall be paid on or before April 1, 2001.
- b) Upon commencement of operation of *Phase II*, the Tribe shall pay to the Tuolumne Fire Protection District the sum of Three Hundred Fifty Thousand Dollars (\$350,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year. The Tribe shall pay its pro rata increased share of said amount within ten (10) days of commencement of operation of *Phase II*, and
- c) On the fourth January 1<sup>st</sup> after commencement of operation of *Phase II*, the Tribe shall pay to the Tuolumne Fire Protection District the sum of Four Hundred Thousand Dollars (\$400,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year for as long as the Project is in operation.

**7.3.2** The parties recognize that there are automatic aid and mutual aid agreements for fire protection and emergency services in effect in Tuolumne County. The increased need for fire protection and emergency services required for the Project will have a significant impact on those automatic aid and mutual aid agreements. The Tribe agrees to mitigate those impacts by paying to the Tuolumne County Fire Department, to be used for the recruitment, equipment, training, and retention of volunteers in Tuolumne County, as follows:

- a) For *Phase I*, the sum of Twenty Thousand Dollars (\$20,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year beginning January 1, 2001, and continuing until the commencement of operation of *Phase II*. The January 1, 2001 payment shall be paid on or before July 1, 2001.
- b) Upon completion of *Phase II*, the sum of Thirty Thousand Dollars (\$30,000.00) per annum to be paid on or before

January 1<sup>st</sup> of each year. The Tribe shall pay its pro rata increased share of said amount within ten (10) days of commencement of operation of *Phase II*, and

- c) On the fourth January 1<sup>st</sup> after completion of *Phase II*, the Tribe shall pay the sum of Forty Thousand Dollars (\$40,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year for as long as the Project is in operation.

## **8.0 EMERGENCY MEDICAL SERVICES**

**8.1** The Tribe recognizes that there will be significant impacts on all of the County's first responders. Tuolumne County Emergency Medical Services provides all the training for the County's first responders. The Tribe shall pay to Tuolumne County Emergency Medical Services the sum of Ten Thousand Dollars (\$10,000.00) per annum on or before January 1<sup>st</sup> of each year for as long as the Project is in operation to pay for the required training for the County's first responders and to mitigate the impacts the Project will have on the County's first responders. The first payment due hereunder shall be paid on or before July 1, 2001.

**8.2** The Tribe also recognizes that there will be significant impacts on Tuolumne County's Office of Emergency Services due to the Project. To aid in the planning and implementing of emergency services, the Tribe shall pay to the Tuolumne County Office of Emergency Services the sum of Ten Thousand Dollars (\$10,000.00) per annum on or before January 1<sup>st</sup> of each year for as long as the Project is in operation. The first payment due hereunder shall be paid on or before July 1, 2001.

## **9.0 PUBLIC WORKS**

**9.1** The Tribe, at its own expense, shall design the realigned Scott Brothers Drive and construct a road providing access to the County's existing service yard. The design of this access road will be subject to review and approval of the Tuolumne County Public Works Department and shall use as a minimum standard for the road section design a T.I. = 6.0. The realigned access road will be formalized by written easement agreements in favor of Tuolumne County from all the affected property owners upon whose property the realigned access road is to be built. Prior to the issuance of any encroachment permits for the Project, the easement agreements for the realigned Scott Brothers Drive shall be reviewed, approved and recorded by the County of Tuolumne. During the construction of *Phase I* the Tribe will be responsible for providing temporary access through the construction site on a continuous and uninterrupted basis until the permanent realigned road is completed and accepted by the County.



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- 9.2 The County will provide timely removal of ice and snow from all public roads in, near or leading to the Project. Snow and ice control will continue at historical levels unless the Tribe contracts with the County for a higher level of service for snow and ice control.
- 9.3 With respect to the conduct of construction on the site, the Tribe shall take the following measures to reduce fugitive dust emissions, including those derived from potential asbestos-bearing rock:
- 9.3.1 Identify areas of serpentine rock on the project site early in the construction phase;
- 9.3.2 Comply with Tuolumne County APC Regulation III (open burning);
- 9.3.3 The Tribe shall be responsible for dust abatement during construction and development of *Phase I* and *Phase II*. A water truck or other watering device shall be on the Project site on all working days when natural precipitation does not provide adequate moisture for complete dust control. Said watering device shall be used to spray water on the site at the end of each day and at other intervals, as need dictates, to control dust;
- 9.3.4 Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard; and,
- 9.3.5 The Tribe shall submit drainage, erosion control, and storm water pollution plans ("Plans") for review and comment to the Tuolumne County Public Works Department, which shall provide the Tribe with comments on the Plans, if it has any, on a priority basis. The Tribe shall give good faith consideration to conforming the Plans in accordance with such comments and to the standards generally required for Storm Water Pollution Prevention Plans adopted in connection with notice of intent (NOI) permits issued by the County.
- 9.3.6 Follow all other mitigation measures generally required for similar projects by the County.

## 10.0 IN LIEU TRAFFIC MITIGATION FEES

- 10.1 The Tribe has undertaken traffic engineering studies based on casinos of similar or greater size than the project facility to assist it in designing traffic ingress and egress and to advise County about traffic counts and other matters relating to traffic circulation.
- 10.2 The Tribe will continue to monitor traffic during the operation of the project and

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share such information with the County in order to adjust for any additional burdens or issues which might arise with respect to traffic circulation once the project begins operations.

- 10.3** The County shall establish a “Tuolumne Tribal Casino Road Improvement and Maintenance Fund” (hereafter the “Fund”) for the purpose of holding and disbursing funds in connection with the improvements described in this Section 10.0. The need for such improvements has been determined through studies previously conducted. The improvements consist of the following (collectively the “Road Improvements”):
- a) Installation of a traffic signal at Woodham Carne Road and Tuolumne Road;
  - b) Installation of a traffic signal at Standard Road and Tuolumne Road;
  - c) Construction of a second westbound through lane of Tuolumne Road from Standard Road to Highway 108;
  - d) Improvement of the intersection at Tuolumne Road and Carter Street so that buses can be accommodated;
  - e) The Tuolumne ByPass improvements or improvement to existing roads that provide access if the ByPass is not built;
  - f) Safety corrections to Cherokee Road;
  - g) Construction of a second westbound through lane on Tuolumne Road from Black Oak/Woodham Carne Road to Highway 108 and a second eastbound lane from Black Oak/Woodham Carne Road to Soulsbyville Road, and
  - h) On-going maintenance of Tuolumne Road, Tuolumne Road North and Tuolumne ByPass and intersections of these roads with other roads including, but not limited to, patching, overlays, striping, signage and snow and ice removal.
- 10.4** Upon execution of this MOU, the Tribe shall pay into the Fund the sum of Five Hundred Fifty Thousand Dollars (\$550,000.00), to be paid as follows:
- a) The sum of Fifty Thousand Dollars (\$50,000.00) shall be paid on or before July 1, 2001,

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- b) The sum of One Hundred Thousand Dollars (\$100,000.00) shall be paid on or before August 1, 2001,
  - c) The sum of One Hundred Thousand Dollars (\$100,000.00) shall be paid on or before September 1, 2001,
  - d) The sum of One Hundred Thousand Dollars (\$100,000.00) shall be paid on or before October 1, 2001,
  - e) The sum of One Hundred Thousand Dollars (\$100,000.00) shall be paid on or before November 1, 2001, and
  - f) The sum of One Hundred Thousand Dollars (\$100,000.00) shall be paid on or before December 1, 2001.
- 10.5 During *Phase I* of the project, the Tribe will also construct at its sole expense improvements which front the proposed casino project along Tuolumne Road North subject to review and approval by the County. All work done in the right-of-way of Tuolumne Road North will require an encroachment permit from the County, which permit shall be processed by the County on a priority basis. Engineered road improvement plans shall be submitted to the County for review and approval.
- 10.6 For *Phase I*, the Tribe shall pay into the Fund the sum of Ninety Thousand Dollars (\$90,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year beginning January 1, 2002, and continuing until the commencement of operation of *Phase II*.
- 10.7 At the time the Tribe obtains the building permit for *Phase II* of the project or begins construction on *Phase II* of the project, the Tribe shall pay into the Fund the sum of Five Hundred Fifty Thousand Dollars (\$550,000.00).
- 10.8 Upon commencement of operation of *Phase II*, the Tribe shall pay into the Fund the sum of One Hundred Thousand Dollars (\$100,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year. The Tribe shall pay its pro rata increased share of said amount within ten (10) days of commencement of operation of *Phase II* for the year in which the commencement of operation of *Phase II* occurs..
- 10.9 On the fourth January 1<sup>st</sup> after commencement of operation of *Phase II*, the Tribe shall pay into the Fund the sum of One Hundred Twenty Thousand Dollars (\$120,000.00) per annum to be paid on or before January 1<sup>st</sup> of each year for as long as the Project is in operation.

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### **11.0 SEWER AND WATER**

**11.1** The Tribe is responsible for providing water and sewer services to the Project by contracting as follows:

**11.1.1** For water, with the Tuolumne Utilities District or other sources, and

**11.1.2** For sewer services, with the Tuolumne City Sanitary District.

### **12.0 ENVIRONMENTAL MITIGATION**

**12.1** The Tribe's off-reservation impact study, conducted in accordance with its off reservation Impact Ordinance and the Compact, has identified several biological and botanical impacts off the reservation which will result from the project.

**12.2** To mitigate the findings of the impact study, the Tribe shall:

**12.2.1** Establish a conservation area within the boundaries of the reservation and on any fee land it controls. In the event the fee land is taken into trust, Tribe shall continue to maintain the conservation area as such.

**12.2.2** The Tribe shall relocate any plants requiring such relocation in accordance with established environmental policies and rules governing such matters.

### **13.0 BUILDING AND SAFETY STANDARDS AND SERVICES**

**13.1** The Tribe shall construct the Project in accordance with the 1997 Uniform Building Code.

**13.2** The County shall assist the Tribe in implementing the aforesaid building standards by:

**13.2.1** Promptly conducting plan checks of all documents submitted to it, on a priority basis if necessary, in recognition of the fact that the Tribe desires to commence gaming operations at the *Phase I* facility on or before May 14, 2001, and

**13.2.2** Assigning a building inspector full-time on-site or equivalent to conduct inspections on a timely basis.

**13.3** The Tribe shall pay to County for such services a fee of:

**13.3.1** For *Phase I*—

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- a) the sum of Twelve Thousand Dollars (\$12,000.00) for plan review prior to issuance of the permit or within ten (10) days of execution of this Agreement whichever is sooner, and
- b) the sum of Sixty-five Dollars (\$65.00) per hour based on a forty (40) hour week, and Eighty-one Dollars and Twenty-five Cents (\$81.25) per hour for any time exceeding forty (40) hours per week for construction inspections. The County shall invoice the Tribe monthly for such services and the Tribe shall pay said invoice within ten (10) days of receipt of said invoice.

### 13.3.2 For *Phase II* –

- a) the sum of Forty-three Thousand Dollars (\$43,000.00) for plan review prior to issuance of the permit, and
- b) the sum of Sixty-five Dollars (\$65.00) per hour based on a forty (40) hour week, and Eighty-one Dollars and Twenty-five Cents (\$81.25) per hour for any time exceeding forty (40) hours per week for construction inspections. The County shall invoice the tribe monthly for such services and the Tribe shall pay said invoice within ten (10) days of receipt of said invoice.

## 14.0 SOCIAL-ECONOMIC IMPACTS

**14.1 Employment of Welfare Recipients.** The Tribe shall work in good faith with the County's Human Services Department, at its request, to employ qualified participants in the County's Welfare to Work Program at the Tribe's gaming facility. The Tribe shall give preference to tribal members.

### **14.2 Problem Gambling and Compulsive Behavior.**

**14.2.1** As a condition of the contributions in this Section 14.2, the County shall make its programs specifically available, on an outreach basis and to the extent permitted by law, to Native Americans and Tribal members.

**14.2.2** Upon commencement of operation of *Phase I*, the Tribe shall pay the sum of Ten Thousand Dollars (\$10,000.00) per annum on or before January 1<sup>st</sup> of each year to the Tuolumne County Mental Health for the purpose addressing the issues of gambling addiction and other addictive behaviors. Tuolumne County Mental Health shall use the money to provide programs that deal with gambling addiction and other types of addictive behaviors. The first payment due hereunder shall be paid on or before July 1, 2001.

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**14.2.3** Upon commencement of operation of *Phase II*, the Tribe shall pay the sum of Fifteen Thousand Dollars (\$15,000.00) per annum on or before January 1<sup>st</sup> of each year to the Tuolumne County Mental Health for the purpose addressing the issues of gambling addiction and other addictive behaviors. Tuolumne County Mental Health shall use the money to provide programs that deal with gambling addiction and other types of addictive behaviors.

### **15.0 IMPACTS ON COUNTY REVENUES**

**15.1** The Tribe shall pay to the County on an annual basis in lieu of property taxes in the amount of Nine Thousand Five Dollars (\$9,005.00), which amount represents one percent (1%) of the purchase price of the properties identified in Exhibit A. The Tribe shall receive a credit towards other sums required to be paid under this MOU in the amount of Nine Thousand Five Dollars (\$9,005.00).

### **16.0 FOOD FACILITIES**

**16.1** The Tribe shall adhere to the standards of the California Uniform Retail Food Facilities Law and any applicable County ordinances when operating any facility within the Project which sells or gives away any food and/or beverages to any persons.

**16.2** The Environmental Health Department shall conduct all required inspections of the food and beverage facilities located within the Project. Said inspections shall include, but are not limited to, plan checks, on site inspections, and start up certifications. The inspection fees provided for in Chapter 3.40 of the Tuolumne County Ordinance Code shall be paid to the Tuolumne County Environmental Health Department at the time of each inspection or service. By agreeing to the provisions of this section, the Tribe is not consenting to the jurisdiction of the Tuolumne County Department of Environmental Health Department.

### **17.0 HAZARDOUS MATERIALS**

**17.1** The Tribe shall coordinate with the Tuolumne County Environmental Health Department regarding the use, storage, disposal and transportation of any and all hazardous materials to be located within the Project site. The Tribe shall comply with the California Health and Safety Code standards regarding hazardous materials. By agreeing to the provisions of this section, the Tribe is not consenting to the jurisdiction of the Tuolumne County Department of Environmental Health Department.

### **18.0 OTHER PUBLIC SERVICES**

**18.1** Reimbursement for Other Public Services. The parties shall negotiate in good

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faith to provide reasonable reimbursement to the County, or other local jurisdictions, for the impact of providing public services to the Project which have not been already addressed in this MOU.

### **19.0 SUPPORT FOR TRUST APPLICATION**

**19.1** In consideration for the obligations undertaken by the Tribe herein, the County shall provide correspondence to the United States Department of Interior, Bureau of Indian Affairs ("BIA"), the State of California and any other governmental agencies or officials whose approval or cooperation must be obtained, as reasonably requested by the Tribe, and shall respond to inquiries related to said application, in a form and manner that is consistent with the intent of this Section 19.1.

### **20.0 LIMITED WAIVER OF TRIBAL SOVEREIGN IMMUNITY**

**20.1** The Tribe agrees to waive its sovereign immunity in favor of the County and Fire and no other as to the enforcement of the Tribe's obligations under this Memorandum of Understanding. No claims for damages, other than the recovery of payments expressly provided for herein, shall be permitted. Except as so limited, no other waiver of immunity shall be deemed to be granted, either expressly or impliedly, under this Memorandum of Understanding. This waiver shall not be deemed to run in favor of any third party, nor shall this Memorandum of Understanding be deemed to be a third-party beneficiary contract of any kind except as to those specific governmental agencies provided for herein. The Tribe's governing body shall execute a formal Resolution of Limited Waiver of Sovereign Immunity consistent with this section and in substantially identical form as attached hereto as Exhibit B.

### **21.0 DISPUTE RESOLUTION**

#### **21.1 Meet and Confer Process.**

In the event the County or the Tribe believes that the other has committed a possible violation of this MOU, it may request in writing that the parties meet and confer in good faith for the purpose of attempting to reach a mutually satisfactory resolution of the problem within fifteen (15) days of the date of service of said request; provided that if the complaining party believes that the problem identified creates a threat to public health or safety, the complaining party may proceed directly to arbitration as provided in Paragraph 21.5 below.

#### **21.2 Notice of Disagreement.**

If the complaining party is not satisfied with the result of the meet and confer

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process, the complaining party may provide written notice to the other identifying and describing any alleged violation of this MOU ("Notice of Disagreement"), with particularity, if available, and setting forth the action required to remedy the alleged violation.

### **21.3 Response to Notice of Disagreement.**

Within fifteen (15) business days of service of a Notice of Disagreement, the recipient shall provide a written response either denying or admitting the allegation(s) set forth in the Notice of Disagreement, and, if the truth of the allegations are admitted, setting forth in detail the steps it has taken and/or will take to cure the violations. Failure to serve a timely response shall entitle the complaining party to proceed directly to arbitration, as provided in Paragraph 21.5 below.

### **21.4 Expedited Procedure for Threats to Public Safety.**

If the County or the Tribe reasonably believes that in violation of this MOU the other's conduct has caused or will cause a significant threat to public health or safety, resolution of which cannot be delayed for the time periods otherwise specified in this section, the complaining party may proceed directly to the Arbitration Procedures set out in Paragraph 21.5 below, without reference to the Meet and Confer or Notice of Disagreement processes set out in Paragraphs 21.1, 21.2 and 21.3 above, and seek immediate equitable relief. At least twenty-four (24) hours before proceeding in this manner, the complaining party shall provide to the other a written request for correction and notice of intent to exercise its rights under this Paragraph 21.4, setting out the legal and/or factual basis for its reasonable belief that there is a present or an imminent threat to public health or safety.

### **21.5 Binding Arbitration Procedures.**

Subject to prior compliance with the Meet and Confer process set out above in Paragraph 21.1, and the Notice and Response process in Paragraphs 21.2 and 21.3 above, and except as provided in Paragraph 21.4, either party has the right to initiate binding arbitration to resolve any dispute arising under this Agreement. The arbitration shall be conducted in accordance the following procedures:

**21.5.1** The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules.

**21.5.2** The arbitration shall be held in Modesto, California, unless otherwise agreed. The arbitrator shall be empowered to grant compensatory, equitable, and declaratory relief. The provisions of California Code of



## Memorandum of Understanding

Page 17 of 21

Civil Procedure section 1283.05 are incorporated into, and made a part of this MOU; *provided however*, that no discovery authorized by said section may be conducted without leave of the arbitrator, who shall decide to grant leave based on the need of the requesting party and the burden of such discovery in light of the nature and complexity of the dispute.

**21.5.3** If either party requests an oral hearing, the arbitrator shall set the matter for hearing. Otherwise, the arbitrator shall decide whether to set the matter for hearing.

**21.5.4** The resulting award shall be in writing and give the reasons for the decision. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The costs and expenses of the American Arbitration Association and the arbitrator shall be shared equally by and between the parties.

## 22.0 JUDICIAL REVIEW

**22.1** The parties consent to judicial confirmation and enforcement of any award in arbitration, which enforcement shall be in the United States District In and For the Eastern District of California, if it has jurisdiction over the dispute, and if not in the Superior Court of the State of California In and For the County of Tuolumne. Service of process in any such judicial proceeding is waived in favor of delivery of court documents by Certified Mail - Return Receipt Requested to the following:

### FOR THE TRIBE:

The Honorable Kevin Day  
Tribal Chairman  
19590 Mi-Wu Street  
P.O. Box 699  
Tuolumne, California 95379  
Telephone: (209)328-1342  
Facsimile: (209)928-1269

Jerome L. Levine, Esquire  
Holland & Knight, LLP  
633 West 5<sup>th</sup> Street  
21<sup>st</sup> Floor  
Los Angeles, CA 90071-2450  
Telephone: (310)553-8400  
Facsimile: (310)553-8455

### FOR THE COUNTY:

Gregory J. Oliver, Esquire  
Tuolumne County Counsel  
2 South Green Street  
Sonora, California 95370  
Telephone: (209)533-5517  
Facsimile: (209)533-5593

## Memorandum of Understanding

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### 23.0 MISCELLANEOUS

- 23.1 Amendment or Modification.** This MOU may be modified or amended only by a written instrument executed by the Tribe and the County, pursuant to the same authorizations used to execute this MOU in its original form.
- 23.2 Entire Agreement.** This MOU is the entire agreement between the parties and supersedes all prior written and oral agreements, if any, with respect to the subject matter hereof.
- 23.3 Time for Annual Payments.** With regard to annual payments required under this MOU, the time for the delivery to the County and Fire of such payments shall be no later than January 1<sup>st</sup> of each calendar year. Payments should be made payable to the "County of Tuolumne" and sent to the Auditor's Office, County of Tuolumne, 2 South Green Street, Sonora, CA 95370.
- 23.4 Time for Initial Payments.** With regard to initial payments required under this MOU, the time for delivery to the County of such payments shall be no later than thirty (30) days after the commencement of operation of *Phase I* casino at the Project, unless otherwise provided for in this MOU. Payments should be made payable to the "County of Tuolumne" and sent to the Auditor's Office, County of Tuolumne, 2 South Green Street, Sonora, CA 95370.
- 23.5 Renegotiation of Memorandum of Understanding.** The parties shall within sixty (60) days of commencement of operation of *Phase II* or within three (3) years from date this MOU is signed, whichever occurs first, meet and negotiate in good faith the amounts of monies to be paid by the Tribe under this Memorandum of Understanding. The parties may increase or decrease any amounts of monies to be paid by the Tribe under this Memorandum of Understanding based on actual data gathered during the operation of *Phase I* and *Phase II*.
- 23.6 Severability.** Except as otherwise provided in this Paragraph 23.6, the invalidity of any provisions or portion of a provision of this MOU as determined by a court of competent jurisdiction shall not affect the validity of any other provisions of this MOU or the remaining portions of the applicable provisions. If any provision of this MOU is declared invalid by a court of competent jurisdiction which results in the diminution of any payments or financial obligations of the Tribe to the County, then the parties shall use their best efforts to renegotiate the terms of the invalid provisions; in the event that the parties are unable to successfully renegotiate the invalid terms, then they shall resolve the matters at issue through the dispute resolution provisions of this MOU.
- 23.7 Force Majeure.** In the event of a forced delay in the performance by either party of obligations under this MOU due to the closure of the Project, acts of God or of

## Memorandum of Understanding

Page 19 of 21

the public enemy, acts of inaction of the other party of its employees or agents, strikes, lockouts, unusual delay in transportation, unavailability of materials, fires, floods, catastrophic weather or other natural disasters, epidemics, riots, insurrection, war or unavoidable casualties or a change in application gaming laws or the Compact materially diminishing the economics of the Project as anticipated at the time this MOU was executed, the time for performance shall be adjusted or extended, or in the case of a material diminishment in the Project, renegotiated, in light of such changed circumstances.

**23.8 Obligations to Continue During Life of Project.** Unless specifically designated otherwise, all of the parties' obligations under this MOU shall continue throughout the entire life of the gaming project to which this MOU pertains.

**23.9 Governing Law.** This MOU shall be construed pursuant to the applicable federal laws and the laws of the State of California.

**23.10 Mutual Good Faith.** Throughout the term of this MOU, the parties agree to exercise good faith and to observe the covenants contained herein.

**23.11 Modification of Use.** Prior to the conversion of the gaming facility (i.e., *Phase I* and/or *Phase II*) to another use, the Tribe agrees to meet and confer in good faith with the County to ascertain potential impacts of the modified use on county facilities and services and to modify the terms of this agreement or enter into a new agreement to address those impacts which were not contemplated under this MOU.

### **24.0 REIMBURSEMENT FOR COUNTY'S TIME WORKING ON PROJECT**

**24.1** The Tribe recognizes that the County has expended significant amounts of time working on the Project prior to the implementation of this MOU. The parties recognize that the State Gaming Compacts have established a state fund to reimburse counties for time spent working on tribal casino projects. The Tribe agrees to support the County in its application to the state fund for reimbursement for the County's time spent working on the Project. The Tribe shall respond to inquiries about the County's application for reimbursement in a manner that is consistent with the Tribe's responsibilities under this paragraph.

### **25.0 REVIEW BY THE DEPARTMENT OF THE INTERIOR**

**25.1** The parties shall submit this Agreement to the United States Department of the Interior for either (a) approval pursuant to 25 U.S.C. § 81, or (b) a written response that this Agreement does not require approval under 25 U.S.C. §81. The County's signature to this MOU is expressly contingent upon the approval called for in this paragraph, and the County has the right to withdraw its support for the MOU if it is not submitted to the Department of the Interior pursuant to this

**Memorandum of Understanding**

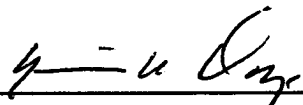
Page 20 of 21

Section or is rejected by the Department of Interior as unacceptable and unenforceable.

DONE as of the day and year first written above.

**"Tribe"**

**TUOLUMNE RANCHERIA BAND OF  
ME-WUK INDIANS**


By:   
KEVIN DAY, Chairman

**ATTEST:**

By:   
LORI FOSTER, Secretary

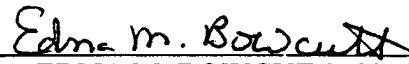
**"County"**

**COUNTY OF TUOLUMNE, A  
POLITICAL SUBDIVISION OF THE  
STATE OF CALIFORNIA**

By:   
DON RATZLAFF, Chairman  
Board of Supervisors

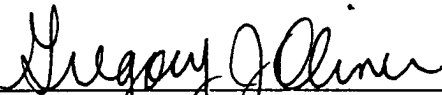
**ATTEST:**

EDNA M. BOWCUTT,  
Clerk of the Board of Supervisors

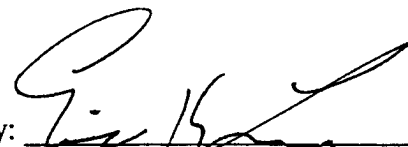
By:   
EDNA M. BOWCUTT, Clerk

**APPROVED AS TO LEGAL FORM:**

COUNTY COUNSEL  
COUNTY OF TUOLUMNE

By:   
GREGORY J. OLIVER,  
County Counsel

**APPROVED AS TO RISK  
MANAGEMENT FORM:**

By:   
ERIC LARSON, Risk Manager

**Memorandum of Understanding**

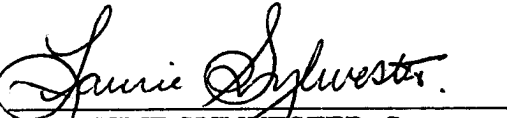
Page 21 of 21

**“Fire”**

TUOLUMNE FIRE PROTECTION  
DISTRICT, A CALIFORNIA SPECIAL  
DISTRICT

By:   
MICHAEL CAPUCCINI, Chairman  
Board of Directors

ATTEST:

By:   
LAURIE SYLWESTER, Secretary  
Tuolumne Fire Protection District  
Board of Directors

**EXHIBIT "A"**

RECORDING REQUESTED BY:  
YOSEMITE TITLE COMPANY  
Escrow No. 80940 DM  
APN: 062-050-02,62,58,59,087-020-08

WHEN RECORDED MAIL TO:  
  
TUOLUMNE BAND OF ME-WUK INDIANS  
  
P.O. BOX 699  
TUOLUMNE, CA 95379

DOCUMENT #      BOOK      PAGE  
007895      1675      0323  
TUOLUMNE COUNTY OFFICIAL RECORDS

RECORDED AT THE REQUEST OF  
YOSEMITE TITLE CO

JUN 05, 2000      8:00:00 AM  
DAVID B. WYTHE, RECORDER  
# OF PAGES: 4  
FEE REC'D: \$2205.10

Mail Tax Statements To Address Above

(SPACE ABOVE RESERVED FOR RECORDER'S USE)

The undersigned grantor(s) declare(s):

DOCUMENTARY TRANSFER TAX \$ 2,179.10

- Computed on the consideration or value of property conveyed; or  
 Computed on the consideration or value less liens or encumbrances  
remaining at the time of sale.  
 Located in an unincorporated area  
 Located in the City of

## GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

SIERRA WESTERN LAND COMPANY, a Limited Partnership

hereby GRANT(S) to

TUOLUMNE BAND OF ME-WUK INDIANS OF THE TUOLUMNE RANCHERIA CALIFORNIA

the real property in the unincorporated area, County of TUOLUMNE, State of California, described as:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF

Dated: March 31, 2000

SIERRA WESTERN LAND COMPANY, a Limited Partnership

BY: Anton J. Coenenberg  
ANTON J. COENENBERG, General Partner

BY: Vern Coenenberg  
VERN COENENBERG, General Partner

Escrow No. 80940 DM

EXHIBIT 'A'

1675/0324

All that certain real property situated in the unincorporated area of the County of Tuolumne, State of California, described as follows:

PARCEL ONE: (A.P.N.'s 062-050-58 and 59)

A portion of Lot 2 and the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 4, Lot 1, a portion of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ), and a portion of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 5, all in Township 1 North, Range 16 East, M.D.B. & M.; being designated as Parcel 10 on the Plat of Baker Ranch, filed in the Office of the County Recorder of Tuolumne County, State of California on March 28, 1958, in Book 14 of Maps, at Pages 55, 56 and 57, as File No. 795, Tuolumne County Official Records, more particularly described as follows:

BEGINNING at the corner common to Sections 4 and 5, Township 1 North, Range 16 East, and Sections 32 and 33, Township 2 North, Range 16 East, M.D.B. & M.; thence North 39° 55' 30" West 1319.80 feet to East 1/16, Section 5 and Section 32; thence South 3° 16' West 1153.84 feet to the Northeast 1/16, Section 5; thence North 89° 47' West 257.23 feet to the East side line of the RATTLESNAKE QUARTZ MINE; thence South 41° 48' East 24.33 feet to the Southeast corner of the RATTLESNAKE QUARTZ MINE; thence South 41° 48' East 24.33 feet to the Southeast corner of the RATTLESNAKE QUARTZ MINE; thence South 52° 20' West 285.03 feet to a point on the East right of way line of the CONFIDENCE-TUOLUMNE COUNTY ROAD; thence South 28° 26' East 620.01 feet along the COUNTY ROAD; thence through a curve to the left with a radius of 970 feet, a delta of 12° 25', and a semi-tangent of 105.51 feet, a distance of 210.21 feet along the COUNTY ROAD; thence South 40° 51' East 241.85 feet along the COUNTY ROAD to the North right of way line of the WEST SIDE LUMBER COMPANY RAILROAD; thence from a tangent bearing of South 87° 12' East through a curve to the right with a radius of 623.69 feet, a delta of 11° 37' and a semi-tangent of 63.44 feet, a distance of 126.45 feet along the railroad right of way; thence South 75° 35' East 479.03 feet along the railroad right of way; thence through a curve to the left with a radius of 523.69 feet, a delta of 63° 47', and a semi-tangent of 325.86 feet, a distance of 582.99 feet along the railroad right of way; thence North 40° 38' East 392.00 feet along the railroad right of way; thence through a curve to the left with a radius of 2814.93 feet, a delta of 6° 12' and a semi-tangent of 152.45 feet a distance of 304.60 feet along the railroad right of way; thence North 34° 26' East 467.01 feet along the railroad right of way; thence through a curve to the right with a radius of 337.94 feet a delta of 67° 54', and a semi-tangent of 227.51 feet, a distance of 400.49 feet along the railroad right of way; thence South 77° 40' East 367.55 feet along the railroad right of way to the East line of the Southwest 1/4 of the Northwest 1/4 of Section 4; thence North 3° 03' East 74.18 feet to the Northwest 1/16 of Section 4; thence North 3° 03' East 32.28 feet; thence West 36.10 feet; thence North 19° 34' West 515.70 feet; thence North 5° 18' West 254.60 feet; thence North 22° 02' West 417.10 feet; thence West 871.10 feet to the point of beginning.

EXCEPTING THEREFROM that portion thereof conveyed to the County of Tuolumne, by Deed recorded January 20, 1981, in Volume 633, Pages 82 through 88, as Instrument No. 843, Tuolumne County Official Records.

PARCEL TWO: (SURFACE RIGHTS ONLY) Portion APN 062-050-02

A portion of the RATTLESNAKE QUARTZ MINE situate in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 5, Township 1 North, Range 16 East, M.D.B.&M., that lies East of the CONFIDENCE-TUOLUMNE COUNTY ROAD, being designated as Parcel 12 on the Plat of BAKER RANCH, filed in the Office of the County Recorder of Tuolumne County, State of California on March 28, 1958 in Book 14 of Maps, at Pages 55, 56 and 57, as File No. 795, Tuolumne County Official Records, more particularly described as follows:

BEGINNING at a point on the North line of the Southwest 1/4 of the Northeast 1/4 and on the East side of the CONFIDENCE-TUOLUMNE COUNTY ROAD from which point the 1/4 corner common to Section 5, Township 1 North, Range 16 East, and Section 32, Township 2 North, Range 16 East, M.D.B.&M. bears North 30° 40' West 1338.78 feet; thence South 89° 47' East 313.91 feet along the North line of the Southwest 1/4 of the Northeast 1/4 of Section 5, to the East side line of the RATTLESNAKE QUARTZ MINE; thence South 41° 48' East 24.33 feet to the Southeast corner of the RATTLESNAKE QUARTZ MINE; thence South 52° 20' West 285.05 feet along the South end line of the RATTLESNAKE QUARTZ MINE to a point on the East side of the CONFIDENCE-TUOLUMNE COUNTY ROAD;



1675/0322

thence North 28° 26' West 197.34 feet along the East line of the County Road; thence through a curve to the left with a radius of 564.68 feet, a delta of 2° 40', and a semi-tangent of 13.14 feet, a distance of 26.28 feet along the East line of the County Road to the point of beginning.

EXCEPTING therefrom that portion thereof conveyed to the County of Tuolumne, by Deed recorded January 20, 1981, in Volume 633, Pages 82 through 88, as Instrument No. 843, Tuolumne County Official Records.

PARCEL THREE: (A.P.N. 087-020-08)

The Southeast Quarter of the Southeast Quarter (SE¼ SE¼) of Section 32, and Lot 9 of Section 33, all in Township 2 North, Range 16 East, M.D.B.&M.

PARCEL FOUR: (SURFACE RIGHTS ONLY) (Portion A.P.N. 062-050-02)

A portion of the RATTLESNAKE QUARTZ MINE situate in the Southwest Quarter of the Northeast Quarter (SW¼ NE¼) of Section 5, Township 1 North, Range 16 East, M.D.B.&M., that lies West of the CONFIDENCE-TUOLUMNE COUNTY ROAD, being designated as Parcel 13 on the Plat of BAKER RANCH, filed in the Office of the County Recorder of Tuolumne County, State of California on March 28, 1958 in Book 14 of Maps, at Pages 55, 56 and 57, as File No. 795, Tuolumne County Official Records, more particularly described as follows:

Beginning at a point on the North line of the Southwest 1/4 of the NE 1/4 and on the West side of the CONFIDENCE-TUOLUMNE COUNTY ROAD, from which point the 1/4 corner common to Sections 5, Township 1 North, Range 16 East, and Section 32, Township 2 North, Range 16 East, M.D.M. bears North 27° 57' 30" West 1303.36 feet;

- thence from a tangent bearing of South 35° 21' East through a curve to the right with a radius of 504.68 feet, a delta of 6° 55', and a semi-tangent of 30.50 feet, a distance of 60.92 feet along the West side of the County Road;
- thence South 28° 26' East 207.12 feet along the West side of the County Road to a point on the south end line of the RATTLESNAKE QUARTZ MINE;
- thence South 52° 20' West 151.46 feet to the Southwest corner of the RATTLESNAKE QUARTZ MINE;
- thence North 46° 14' West 473.55 feet along the West line of the RATTLESNAKE QUARTZ MINE to the North line of the Southwest 1/4 of the Northeast 1/4 of Section 5;
- thence South 89° 47' East 331.14 feet to the point of beginning.

EXCEPTING THEREFROM that portion thereof conveyed to the County of Tuolumne, by Deed recorded January 20, 1981, in Volume 633, Pages 82 through 88, as Instrument No. 843, Tuolumne County Official Records.

PARCEL FIVE: (A.P.N. 062-050-62)

A portion of the Southwest Quarter of the Northeast Quarter (SW¼ NE¼), and a portion of the Southeast Quarter of the Northeast Quarter (SE¼ NE¼) of Section 5, all in Township 1 North, Range 16 East, M.D.B. & M.; being designated as Parcel 11 on the Plat of Baker Ranch, filed in the Office of the County Recorder of Tuolumne County, State of California, on March 28, 1958, in Book 14 of Maps, at Pages 55, 56 and 57, as File No. 795, Tuolumne County Official Records, more particularly described as follows:

Beginning at the North 1/16 of Section 5, marked by a 2" iron pipe from which the 1/4 corner common to Section 5, Township 1 North, Range 16 East, and Section 32, Township 2 North, Range 16 East, M.D.M. bears North 3° 28' East 1150.70 feet;

- thence South 3° 28' West 944.60 feet along the West side of the Southwest 1/4 of the Northeast 1/4 of Section 5;
- thence South 66° 29' East 317.40 feet;
- thence South 72° 48' East 180.30 feet;
- thence South 49° 33' East 249.00 feet;
- thence South 8° 09' East 164.00 feet;
- thence South 41° 07' East 97.50 feet to a point on the North right of way line of the West Side Lumber Company Railroad;
- thence from a tangent bearing of North 88° 18' East through a curve to the right with a radius of 528.34 feet, a delta of 29° 22', and a semi-tangent of 138.44 feet, a distance of 270.79 feet along the railroad right of way;

thence North 57° 40' East 239.72 feet along the railroad right of way;  
 thence through a curve to the right with a radius of 623.69 feet, a delta of 27° 56' and a semi-tangent of 155.12 feet, a distance of 304.06 feet along the railroad right of way to its intersection with the West right of way line of the Confidence-Tuolumne Road;  
 thence North 40° 51' West 191.47 feet along the County Road right of way;  
 thence through a curve to the right with a radius of 1030 feet, a delta of 12° 25', and a semi-tangent of 112.05 feet, a distance of 223.21 feet along the County Road right of way;  
 thence North 28° 26' West 610.23 feet along the County Road right of way to the South end line of the Rattlesnake Quartz Mine;  
 thence South 52° 20' West 151.46 feet to the Southwest corner of the Rattlesnake Quartz Mine;  
 thence North 46° 14' West 473.55 feet along the West side line of the Rattlesnake Quartz Mine to the North line of the Southwest 1/4 of the Northeast 1/4 of Section 5;  
 thence North 89° 47' West 349.48 feet to the point of beginning.

RECORDED

EXCEPTING THEREFROM that portion thereof conveyed to the County of Tuolumne, by Deed recorded January 20, 1981, in Volume 633, Pages 82 through 88, as Instrument No. 843, Tuolumne County Official Records.

STATE OF CALIFORNIA )  
 COUNTY OF Santa Clara )

On 4/29/00 before me, Sharon Hoang a Notary Public in and for said  
 County and State, personally appeared Anton J. Coenenberg

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
 Notary Signature



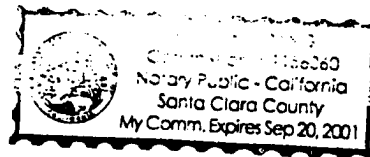
STATE OF CALIFORNIA )  
 COUNTY OF Santa Clara )

On 4/29/00 before me, Sharon Hoang a Notary Public in and for said  
 County and State, personally appeared Vern Coenenberg

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
 Notary Signature



RECORDING REQUESTED BY:  
YOSEMITE TITLE COMPANY  
Escrow No. 81354 RT  
APN: 062-040-17

WHEN RECORDED MAIL TO:

TUOLUMNE BAND OF ME WUK INDIANS OF  
THE TUOLUMNE RANCHERIA CALIFORNIA  
P. O. Box 699  
Tuolumne, CA 95379

DOCUMENT #      BOOK      PAGE  
009750      1682      0610  
TUOLUMNE COUNTY OFFICIAL RECORDS

RECORDED AT THE REQUEST OF  
YOSEMITE TITLE CO

JUL 07, 2000      8:00:00 AM  
DAVID D BYRNE, RECORDER  
# OF PAGES: 2  
FEE REC'D : \$179.50

Mail Tax Statements To Address Above

(SPACE ABOVE RESERVED FOR RECORDER'S USE)

The undersigned grantor(s) declare(s):

DOCUMENTARY TRANSFER TAX \$ 159.50

- Computed on the consideration or value of property conveyed; or  
 Computed on the consideration or value less liens or encumbrances  
remaining at the time of sale.  
 Located in an unincorporated area  
 Located in the City of Tuolumne

## GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

FREIDA CARRELL, an unmarried woman and HAL CARRELL, a married man, as Joint Tenants

hereby GRANT(S) to


TUOLUMNE BAND OF ME WUK INDIANS OF THE TUOLUMNE RANCHERIA CALIFORNIA

the real property in the unincorporated area of the, County of Tuolumne, State of California, described as:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF

Dated: June 7, 2000

  
\_\_\_\_\_  
HAL CARRELL

  
\_\_\_\_\_  
FREIDA CARRELL

Escrow No. 81354 RT

EXHIBIT 'A'

All that certain real property situated in the unincorporated area of the County of Tuolumne, State of California, described as follows:

Lot 15, Section 5, Township 1 North, Range 16 East, M.D.B. & M.

Assessor's Parcel No. 062-040-17

1682/0611 END

STATE OF CALIFORNIA )  
COUNTY OF TUOLUMNE )

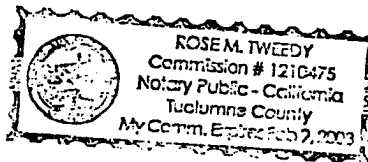
On July 7, 2000 before me, ROSE M. TWEEDY a Notary Public in and for said

County and State, personally appeared FREIDA CARRELL AND HAL CARRELL

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Rose M Tweedy  
Notary Signature



**EXHIBIT "B"**



# TUOLUMNE ME-WUK TRIBAL COUNCIL

Post Office Box 699  
TUOLUMNE, CALIFORNIA 95379  
Telephone (209) 928-3475  
Fax (209) 928-1677

## *Resolution adopting Memorandum of Understanding and Limited Waiver of Sovereign Immunity*

*Resolution # 00-03-01*

*Be it resolved by the Community Council of the Tuolumne Band of Me-Wuk Indians*

**WHEREAS:** The Tuolumne Band of Me-Wuk Indians of the Tuolumne Me-Wuk Rancheria is a federally recognized Indian Tribe with a Constitution approved by the Secretary of the Interior; and

**WHEREAS:** The Tuolumne Band of Me-Wuk Indians desires to enter into an agreement with the County of Tuolumne, a political subdivision of the State of California, and the Tuolumne Fire Protection District, a California Special District, which is known as the Memorandum of Understanding; and,

**WHEREAS:** The Memorandum of Understanding provides for cooperative actions between the Tribe, the County of Tuolumne, and the Tuolumne Fire Protection District in conjunction with the anticipated development by the Tribe of a gaming facility to be operated in accordance with the provisions of the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. §2701, *et seq.* ("IGRA"); and,

**WHEREAS:** The Memorandum of Understanding concerns a wide range of issues of concern to the Tribe, the County of Tuolumne, and the Tuolumne Fire Protection District, including land use, law enforcement and fire protection and related jurisdiction over the Tribe's lands, comprehensive mitigation of environmental impacts of the project and compliance with enumerated standards for building construction and design, all of which are important to the two parties.

**NOW THEREFORE BE IT RESOLVED:** That the Tuolumne Me-Wuk Community Council hereby adopts this Resolution of Limited Waiver of Sovereign Immunity through which it waives on a limited basis its sovereign immunity in favor of the County of Tuolumne and the Tuolumne Fire Protection District in conjunction with the Memorandum of Understanding between the Tribe, the County of Tuolumne, and the Tuolumne Fire Protection District, a copy of which is attached hereto as Exhibit A, on the terms, conditions and subject to

the limitation set forth in Sections 20, 21, and 22 of the Memorandum of Understanding and no others.

**BE IT FURTHER RESOLVED:** That the Community Council specifically adopts such Memorandum of Understanding and all of its terms and conditions.

**BE IT FURTHER RESOLVED:** That the Community Council specifically consents to the enforcement of the terms and conditions of the Memorandum of Understanding by the County of Tuolumne and the Tuolumne Fire Protection district in accordance with the provisions of Section 20 thereof, or otherwise, subject in all cases to the limitations in the Memorandum of Understanding.

**BE IT FURTHER RESOLVED:** That the Community Council specifically limits this limited waiver of sovereign immunity to matters arising under and in connection with the Memorandum of Understanding, and for no other purposes, as also limited above per Sections 20, 21, and 22 of the Memorandum of Understanding.

#### CERTIFICATION

This is to Certify that this Resolution No. 00-03-01 was adopted by the Tuolumne Community Council on Jan. 10, 2000, by a vote of 13 yes, 0 no, and 0 abstentions.

Kevin A. Day

Kevin A. Day – Chairman

1-10-01

Date

Don S. [Signature]

Attest – Tribal Member at Large

01.11.01

Date

**AMENDMENT TO THE MEMORANDUM OF  
UNDERSTANDING BETWEEN THE  
TUOLUMNE BAND OF ME-WUK INDIANS  
AND THE COUNTY OF TUOLUMNE**

This amendment is made and entered into as of this 8<sup>th</sup> day of <sup>October</sup>~~September~~, 2002 by and between the TUOLUMNE BAND OF ME-WUK INDIANS, a federally recognized Indian tribe (hereinafter "TRIBE") and the COUNTY OF TUOLUMNE, a political subdivision of the State of California (hereinafter "COUNTY").

**RECITALS**

**WHEREAS**, the TRIBE and COUNTY entered into a Memorandum of Understanding by and between the TUOLUMNE RANCHERIA BAND OF ME-WUK INDIANS, a federally recognized Indian tribe, and the COUNTY OF TUOLUMNE, a political subdivision of the State of California and the TUOLUMNE FIRE PROTECTION DISTRICT, a State of California Special District dated January 16, 2001, regarding the construction and operation of a Class III gaming facility by the TRIBE; and

**WHEREAS**, the TRIBE and COUNTY mutually agree to amend the Memorandum of Understanding to reflect changes in some of the terms and conditions of the original Memorandum of Understanding as it pertains to the TRIBE and the COUNTY.

**NOW, THEREFORE, COUNTY AND TRIBE AGREE** as follows:

1. A new Section 19.2 shall be added to read as follows:

*19.2 The Tribe may file an application with United States Department of Interior, Bureau of Indian Affairs ("BIA") to place Assessor's Parcel Numbers 62-040-11, 62-050-02, 62-050-58, 62-050-59, and 87-020-08 into Trust. The Tribe and the County have agreed to do the following regarding the filing of an application to place Assessor's Parcel Numbers 62-040-11, 62-050-02, 62-050-58, 62-050-59, and 87-020-08 into Trust:*

*a) Once the Trust application has been approved, the Tribe shall continue to pay on an annual basis to the County an amount equal to the amount of*



*property taxes that would have been due for Assessor's Parcel Numbers 62-040-11, 62-050-02, 62-050-58, 62-050-59, and 87-020-08 if the parcels were not in Trust. The County shall invoice the Tribe on or before January 31<sup>st</sup> of each year for the amount of property taxes that would have been due for said parcels. The Tribe shall continue to pay annually an amount equal to the amount of property taxes that would have been due for Assessor's Parcel Numbers 62-040-11, 62-050-02, 62-050-58, 62-050-59, and 87-020-08 until the Tribe agrees to fund and begins construction on the Tuolumne by-pass. Once construction begins on the Tuolumne by-pass, the Tribe's obligation to pay in-lieu property taxes shall cease.*

- b) The monies received from the Tribe pursuant to subsection a, above, shall be used by the County to equip and furnish the Tuolumne Library and Recreation Center. The County shall continue to use the money for the Tuolumne Library and Recreation Center for the first five (5) years that money is received from the Tribe. Any monies received in year six (6) and beyond, shall be placed into the Tuolumne Tribal Casino Road Improvement and Maintenance Fund as provided for in Section 10.3 of the original Memorandum of Understanding.*
- c) In consideration for the obligations undertaken by the Tribe herein, the County shall provide correspondence to the United States Department of Interior, Bureau of Indian Affairs ("BIA"), the State of California and any other governmental agencies or officials whose approval or cooperation must be obtained, as reasonably requested by the Tribe, and shall respond to inquiries related to said application, in a form and manner that is consistent with the intent of this Section 19.2.*

2. A new Section 26.0 shall be added to read as follows:

**26.0 PLACEMENT OF BLACK OAK CASINO SIGN ON COUNTY PROPERTY**

*26.1 The Tribe may lease County property located along Highway 108 near Mother Lode Motors and commonly known as Assessor's Parcel Number 56-250-09 to place a Black Oak Casino sign as shown in Exhibit "A" to this Amendment. The Tribe shall comply with the following conditions:*

- a) The Tribe shall obtain an off-premise sign permit from CalTrans to comply with the Outdoor Advertising Act prior to installation of the sign.*
- b) The Tribe shall not install any lighting or spot lighting on the sign.*
- c) The Tribe shall not place the sign within three (3) feet of a fire hydrant.*
- d) The Tribe shall not modify, enhance or change the sign without approval of the Tuolumne County Board of Supervisors.*
- e) If a cultural resource is discovered during the installation of the sign, the Tribe shall comply with the following provisions:*
  - 1. The person discovering the cultural resource shall notify the Community Development Department by telephone within 4 hours of the discovery or the next working day if the department is closed.*
  - 2. When the cultural resource is located outside the area of disturbance, the Community Development Department shall be allowed to photo-document and record the resource and construction activities may continue during this process. On parcels of two or more gross acres, the area of disturbance includes building pads, septic areas, driveways or*

*utility lines, grading and vegetation removal, plus 300 feet. On parcels of less than 2 gross acres, the area of disturbance equals the boundaries of the parcel.*

- 3. When the cultural resource is located within the area of disturbance, all activities that may impact the resource shall cease immediately upon discovery of the resource. All activity that does not affect the cultural resource as determined by the Community Development Department may continue. A qualified professional, as defined in Section 17.07.360 of the Tuolumne County Ordinance Code, such as an archaeologist or an historian, shall be allowed to conduct an evaluative survey to evaluate the significance of the cultural resource.*
- 4. When the cultural resource is determined to not be significant, the qualified professional or Community Development Department shall be allowed to photo-document and record the resource. Construction activities may resume after authorization from the Community Development Department.*
- 5. When a resource is determined to be significant, the resource shall be avoided with said resource having boundaries established around its perimeter by a qualified professional archaeologist or historian or a cultural resource management plan shall be prepared by a qualified professional to establish measures formulated and implemented in accordance with Sections 21083.2 and 21084.1 of the California Environmental Quality Act (CEQA) to address the effects of construction on the resource. The qualified professional shall be allowed to photo-document and record the resource. Construction activities may resume after authorization from the*

*Community Development Department. All further activity authorized by this permit shall comply with the cultural resources management plan.*

*A cultural resource is any building, structure, object, site, district, or other item of cultural, social, religious, economic, political, scientific, agricultural, educational, military, engineering or architectural significance to the citizens of Tuolumne County, the State of California, or the nation which is 50 years of age or older or has been listed on the National Register of Historic Places, the California Register of Cultural Resources, or the Tuolumne County Register of Cultural Resources.*

- f) If at such time the Black Oak Casino is no longer in business, the sign shall be removed within a period of thirty (30) days of cessation of operations of Black Oak Casino.*
- g) The County or the Tribe may at their sole discretion terminate the placement of the Black Oak Casino sign on the County's property by giving the other party a one (1) year's notice of its intent to terminate. If either the County or the Tribe exercises their right to terminate the placement of the sign on the County's property, the Tribe shall remove said sign within thirty (30) days of the termination becoming effective. The Tribe's obligations under this Section 26.0 shall cease once the termination becomes effective and the sign has been removed.*

*26.2 The Tribe shall pay to the County the annual sum of Three Thousand Dollars (\$3,000.00) as fair market rent for the placement of the Black Oak Casino sign on County property. The monies paid by the Tribe to the County for the use of County property for the placement of the Black Oak Casino sign shall be placed into the Tuolumne Tribal Casino Road Improvement and Maintenance Fund as provided for in Section 10.3 of the original Memorandum of Understanding.*

3. That all other terms and conditions of the original Memorandum of Understanding shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this agreement as of the date first written above.

**COUNTY**

**TRIBE**

By: Laurie Sylwester  
LAURIE SYLWESTER, Chair  
Board of Supervisors

By: Kevin Day  
KEVIN DAY, Chairman,  
Tribal Council

**ATTEST:**

**ATTEST:**

By: Edna M. Bowcutt  
EDNA M. BOWCUTT, Clerk

By: Lori Foster  
LORI FOSTER, Secretary

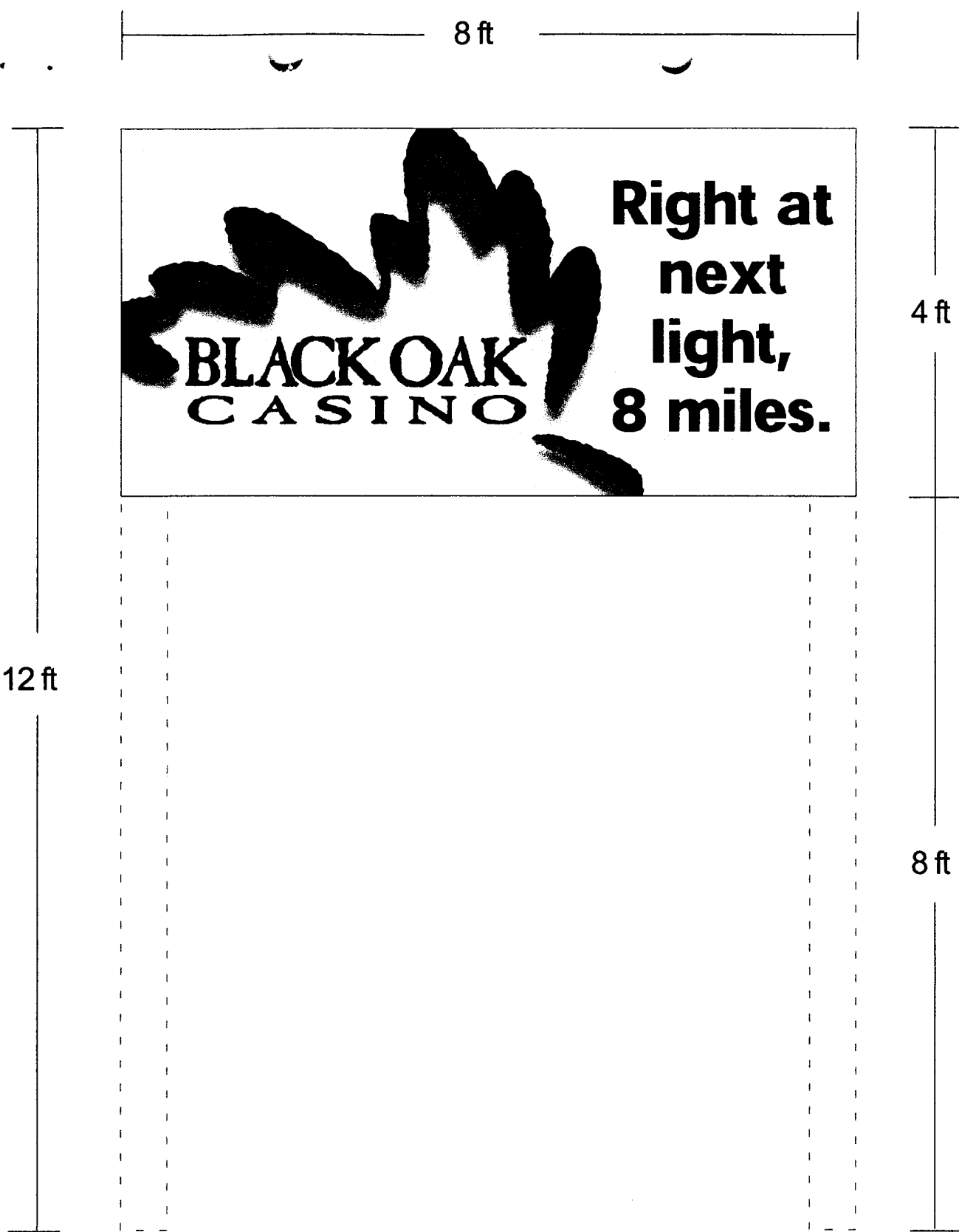
**APPROVED AS TO LEGAL FORM:**

**APPROVED AS TO RISK  
MANAGEMENT FORM:**

By: Gregory J. Oliver  
GREGORY J. OLIVER,  
County Counsel

By: Eric Larson 9/6/02  
ERIC LARSON, Risk Manager

**EXHIBIT "A"**



Client: Black Oak Casino  
 Job Number: 148 014  
 Job Description: Mother Lode Motors Directional Sign  
 Produced by Thielen & Associates, Fresno, CA

**Proof No: 2**

	INITIAL	DATE	PA
Art Director:			
Proofreader:			
Creative Director:			
Account Exec.:			
<input type="checkbox"/> Submit Revised Proof			
<input type="checkbox"/> Approved-No Changes			
<input type="checkbox"/> Hard Copy: Client			
<input type="checkbox"/> Email Proof: Client			

	INITIAL	DATE	PA
Client:			
<input type="checkbox"/> Submit Revised Proof			
<input type="checkbox"/> Approved-No Changes			

**INTERNAL:**

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