

RESOLUTION NO. 2023-051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING A SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ROHNERT PARK AND THE FEDERATED INDIANS OF THE GRATON RANCHERIA

WHEREAS, the Federated Indians of Graton Rancheria, is a federally recognized Indian tribe (the “Tribe”); and

WHEREAS, the Tribe is comprised of Coast Miwok and Southern Pomo Indians whose aboriginal territory includes Marin and Sonoma Counties, California; and

WHEREAS, the Tribe and the City entered into a Memorandum of Understanding (“Original MOU”) made effective as of October 14, 2003, providing for funds to mitigate impacts of the Tribe’s proposed gaming facility on the City and to make investments in and contributions to the Rohnert Park community; and

WHEREAS, the City and the Tribe entered into the First Amended and Restated MOU (“First Amended MOU”), dated as of March 26, 2013 and effective as of April 17, 2013, which amended, replaced and effectively terminated the Original MOU in its entirety, and further called for both recurring and non-recurring payments to the City to mitigate impacts of the Tribe’s gaming facility on the City via an account established pursuant to the Compact for the receipt of revenues paid by the Tribe (the “Graton Mitigation Fund”); and

WHEREAS, in November, 2013, the Tribe opened its gaming facility, the Graton Resort & Casino (the “Gaming Facility”) on the Reservation; and

WHEREAS, the Tribe and City have advanced a cooperative and mutually respectful government-to-government relationship between themselves; and

WHEREAS, the Tribe intends to construct an expansion of the Gaming Facility (the “Expansion”) on the Reservation, and in furtherance of such Expansion, has initiated a Tribal Environmental Impact Report (“TEIR”) process under which it has solicited and received comments from the public, including from the City; and

WHEREAS, the Tribe is committed to continuing to improve the environment, health, safety, and general welfare of its citizens and of the surrounding community; and

WHEREAS, the Tribe wishes to continue to provide adequate funding to the City to mitigate impacts of the Gaming Facility and to continue to enrich the social, educational, and environmental conditions of the community; and

WHEREAS, the Parties wish to establish, by and through the Second Amended and Restated Memorandum of Understanding (“Second Amended MOU”), a method for the Tribe to provide such funding directly to the City without use of the Graton Mitigation Fund following the effective date of the 2023 Compact; and

WHEREAS, the City intends to use the mitigation funding provided by the Tribe under the Second Amended MOU to mitigate impacts on City resources and services such as, without limitation, traffic, staffing levels in public safety, public works, neighborhood upgrades, workforce housing, problem gambling, storm water drainage and other impacts, and to use the community

benefit contributions provided by the Tribe to improve the environment, health, safety and general welfare of its residents; and

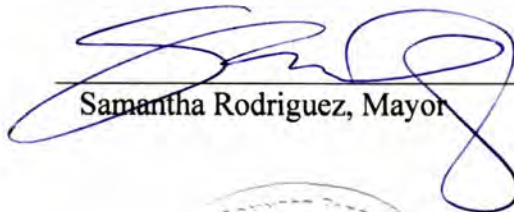
WHEREAS, the City and the Tribe desire to enter into the Second Amended MOU to set forth the understandings of the Tribe and the City on the topics expressly set forth in the Second Amended MOU, and to amend, replace, and terminate the First Amended MOU in its entirety as of the Effective Date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve a Second Amended and Restated Memorandum of Understanding by and between the Federated Indians of the Graton Rancheria, a federally recognized Indian tribe, and the City of Rohnert Park, a municipal corporation.

BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized and directed to take all actions to effectuate this Second Amended and Restated Memorandum of Understanding in substantially similar form attached hereto as Exhibit "A" for and on behalf of the City of Rohnert Park, subject to modifications approved by the City Manager or City Attorney.

DULY AND REGULARLY ADOPTED this 27th day of June, 2023.

CITY OF ROHNERT PARK


Samantha Rodriguez, Mayor

ATTEST:

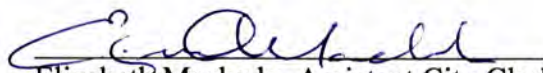

Elizabeth Machado, Assistant City Clerk

Exhibit A



ELWARD: Aye GIUDICE: Aye SANBORN: Aye HOLLINGSWORTH ADAMS: Aye RODRIGUEZ: Aye
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

THE CITY OF ROHNERT PARK

AND THE FEDERATED INDIANS OF GRATON RANCHERIA

DATED AS OF: June 27, 2023

EFFECTIVE AS OF: June 27, 2023

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THIS SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING (the “**MOU**”) is made this 17 day of June, 2023, by and between the City of Rohnert Park, a California municipal corporation, organized and existing under and by virtue of the laws of the State of California (the “**City**”), and the Federated Indians of Graton Rancheria, a federally recognized Indian tribe (the “**Tribe**”) (each a “**Party**” and collectively the “**Parties**”). The capitalized terms not otherwise defined herein have the meanings set forth below.

RECITALS

WHEREAS, the Tribe is comprised of Coast Miwok and Southern Pomo Indians whose aboriginal territory includes Marin and Sonoma Counties, California; and

WHEREAS, in 1966, the federal government terminated its relationship with the Tribe pursuant to the California Rancheria Act of 1958 (Pub. L. 85-671) and transferred title to the lands known as the Graton Rancheria into private ownership; and

WHEREAS, in 2000, Congress restored federal recognition to the Tribe pursuant to the Graton Rancheria Restoration Act (“**Restoration Act**”), Pub. L. 106-568; and

WHEREAS, the Restoration Act requires the Secretary of the Department of the Interior (the “**Secretary**”) to accept into trust for the benefit of the Tribe, as part of the Tribe’s reservation, any real property identified by the Tribe and located in Marin or Sonoma County; and

WHEREAS, after substantial consultations, the Tribe identified a site suitable for its reservation adjacent to the boundaries of the City and within the unincorporated area of the County of Sonoma (the “**Reservation**”); and

WHEREAS, the Tribe and the City entered into a Memorandum of Understanding (“**Original MOU**”) made effective as of October 14, 2003, providing for funds to mitigate impacts of the Tribe’s proposed gaming facility on the City and to make investments in and contributions to the Rohnert Park community; and

WHEREAS, on October 1, 2010, pursuant to the Restoration Act, the Secretary accepted the Reservation into trust on behalf of the Tribe; and

WHEREAS, on May 17, 2012, the California Legislature ratified a gaming compact (the “**2012 Compact**”) between the Tribe and State that authorizes the operation of a class III gaming facility on the Reservation pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et seq.* (“**IGRA**”); and

WHEREAS, on July 12, 2012, the Secretary published notice in the Federal Register that the Compact is considered to have been approved but only to the extent consistent with the provisions of IGRA; and

WHEREAS, the City and the Tribe entered into the First Amended and Restated MOU (“**First Amended MOU**”), dated as of March 26, 2013 and effective as of April 17, 2013, which amended, replaced and effectively terminated the Original MOU in its entirety, and further called for both recurring and non-recurring payments to the City to mitigate impacts of the Tribe’s

gaming facility on the City via an account established pursuant to the Compact for the receipt of revenues paid by the Tribe (the “**Graton Mitigation Fund**”); and

WHEREAS, in November, 2013, the Tribe opened its gaming facility, the Graton Resort & Casino (the “**Gaming Facility**”) on the Reservation; and

WHEREAS, the Tribe and City have advanced a cooperative and mutually respectful government-to-government relationship between themselves; and

WHEREAS, the Tribe has fulfilled its payment obligations under the First Amended MOU to date, and as of March, 2023, the Tribe had paid over one hundred seventeen million dollars (\$117,000,000) to the City via the Graton Mitigation Fund; and

WHEREAS, the Tribe intends to construct an expansion of the Gaming Facility (the “**Expansion**”) on the Reservation, and in furtherance of such Expansion, has initiated a Tribal Environmental Impact Report (“**TEIR**”) process under which it has solicited and received comments from the public, including from the City; and

WHEREAS, the legality of certain requirements of the 2012 Compact, including but not limited to the TEIR process and Graton Mitigation Fund, have been called into question due to recent federal administrative and court rulings; and

WHEREAS, the Tribe has negotiated a new class III gaming compact with the State of California (the “**2023 Compact**”) which, has been duly signed by the Governor and ratified by the Legislature and which, once approved by the Secretary of the Interior, will permit the Tribe to increase the number of class III Gaming Devices currently allowed in the Gaming Facility; and

WHEREAS, the 2023 Compact does not include certain requirements which have been held not to be permitted under IGRA, including but not limited to the Graton Mitigation Fund; and

WHEREAS, the Tribe is committed to continuing to improve the environment, health, safety, and general welfare of its citizens and of the surrounding community; and

WHEREAS, the Tribe wishes to continue to provide adequate funding to the City to mitigate impacts of the Gaming Facility and to continue to enrich the social, educational, and environmental conditions of the community; and

WHEREAS, the Parties wish to establish, by and through this MOU, a method for the Tribe to provide such funding directly to the City without use of the Graton Mitigation Fund following the effective date of the 2023 Compact; and

WHEREAS, this MOU does not constitute a “project” for CEQA purposes because it involves the creation of a government funding mechanism and/or other government fiscal activity. The terms in this MOU do not involve any commitment to any “project” outside of an Indian reservation which may result in a potentially significant physical impact on the environment and only require the Tribe to make payments for identified mitigation measures and community benefit programs. This MOU does not obligate the City to undertake any specified mitigation measure or

program or construction project nor does it set a time for development as those terms are used in CEQA; and

WHEREAS, the City recognizes and acknowledges that the Gaming Facility is located outside the incorporated boundaries of the City and that the City has no authority to exercise jurisdiction over the Reservation, the Gaming Facility, or the Expansion. The City does not have legal authority to deliberate on, approve, disapprove, or otherwise exercise judgment regarding the Gaming Facility or the Expansion. The City is therefore not deliberating on, approving, disapproving, or otherwise exercising judgment regarding the Gaming Facility or the Expansion by entering into this MOU; and

WHEREAS, the City acknowledges that the contributions and investments to be made by the Tribe hereunder are intended and expected to be sufficient to mitigate the impacts of the Gaming Facility and the Expansion on the City; and

WHEREAS, time is of the essence with respect to commencement and completion of the Expansion, which requires the prompt and timely approval on the part of the City of the MOU so that no disruption of the Expansion occurs. The Parties anticipate that the Expansion may commence as early as June 2023; and

WHEREAS, the City intends to use the mitigation funding provided by the Tribe hereunder to mitigate impacts on City resources and services such as, without limitation, traffic, staffing levels in public safety, public works, neighborhood upgrades, workforce housing, problem gambling, storm water drainage and other impacts, and to use the community benefit contributions provided by the Tribe to improve the environment, health, safety and general welfare of its residents; and

WHEREAS, on November 28, 2022, the City received notice from the Secretary of the Tribe's application, Case Number 33327, to take an additional approximately seventy-three (73) acres of land adjacent to the Reservation into trust on behalf of the Tribe (the "**Trust Application**"); and

WHEREAS, the City has submitted comments supporting the Trust Application; and

WHEREAS, the purpose of this MOU is to set forth the understandings of the Tribe and the City on the topics expressly set forth in this MOU, and to amend, replace, and terminate the First Amended MOU in its entirety as of the Effective Date.

NOW, THEREFORE, in consideration of the above and of the mutual promises herein contained, the sufficiency of which is acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

The following defined terms, as used in this MOU, shall have the following meanings:

"2012 Compact" means the Tribal-State Compact between the State and the Tribe, governing the conduct of Gaming Activities on the Reservation pursuant to IGRA, as executed on March 27, 2012 by the State and March 26, 2012 by the Tribe, considered to have been approved by the

Secretary pursuant to 25 U.S.C. § 2710(d)(8)(C), notice of which was published in the Federal Register on July 12, 2012 (a correction to the notice was published July 23, 2012), as the same may be amended or restated from time to time, and which is available online at: http://gov.ca.gov/docs/Graton_Compact_executed.pdf.

“2023 Compact” means the Tribal-State Compact between the State and the Tribe, governing the conduct of Gaming Activities on the Reservation pursuant to IGRA, as executed on March 1, 2023 by the Tribe, and March 9, 2023 by the State, ratified by the Legislature on May 11, 2023 and subject to final approval by the Secretary pursuant to 25 U.S.C. § 2710(d)(8)(C), notice of which will be published in the Federal Register, as the same may be amended or restated from time to time, which will replace and terminate the 2012 Compact, and is available online at: <https://www.gov.ca.gov/wp-content/uploads/2023/03/Graton-Rancheria-Compact.pdf?emrc=0a46ba>.

“Caltrans” means the State of California, Department of Transportation.

“CEQA” means the California Environmental Quality Act, California Public Resources Code § 21000 *et seq.*, and any amendments thereto, and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

“Circulation Contribution” is defined in Section 4.3.1.

“City” means the City of Rohnert Park, a California municipal corporation, organized and existing under and by virtue of the laws of the State of California.

“County” means the County of Sonoma.

“CPI Adjustment” means an annual increase from the dollar amount applicable to the previous year which is equal to the annual increase in the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose area.

“District” means the Cotati-Rohnert Park Unified School District.

“Due Dates” means each and every date upon which contributions are due and expected to be received from the Tribe.

“Effective Date” means the date upon which this MOU takes effect pursuant to Section 5.1.

“Expansion,” as referenced in Section 8 of this MOU, means the expansion of the Tribe’s Gaming Facility as more fully described in the Notice of Preparation published on or about April 4, 2022, and in the Final TEIR published on or about May 8, 2023.

“Expiration Date” means the date the 2023 Compact expires or terminates.

“First Amended MOU” means the First Amended and Restated MOU entered into by and between the Tribe and the City, dated as of March 26, 2013 and effective as of April 17, 2013.

“Force Majeure” is defined in Section 6 of this MOU.

“Fundamental Changes Renegotiations” is defined in Section 7.1 of this MOU.

“Gaming Activities” means the class III gaming activities authorized by section 3.0 of the 2023 Compact.

“Gaming Device” means any slot machine within the meaning of article IV, section 19, subdivision (f) of the California Constitution and as defined in section 2.10 of the 2023 Compact.

“Gaming Facility” means the Graton Resort & Casino and all references herein specifically include the Expansion as defined above.

“Golf Course Drive Improvement” is defined in Section 4.2 of this MOU.

“Graton Mitigation Fund” means an account established pursuant to the 2012 Compact for receipt of revenues from the Tribe to be paid to the City and other governmental organizations to mitigate impacts of the Gaming Facility.

“IGRA” means the Indian Gaming Regulatory Act of 1988 (P.L. 100-497, 18 U.S.C. § 1166 *et seq.* and 25 U.S.C. § 2701 *et seq.*), and any amendments thereto, and the regulations promulgated thereunder, as the same may be amended or modified from time to time.

“MOU” means this Second Amended and Restated Memorandum of Understanding, dated as of the last signature below.

“Neighborhood Upgrade Programs” means programs conducted by the City to construct, reconstruct, rehabilitate, maintain or otherwise provide neighborhood facilities including, but not limited to, parks, streets, streetscaping, bioswales, sidewalks, lighting, pedestrian/bicycle/multi-use paths, and public buildings, as well as educational, recreational and cultural arts programs provided by the City.

“Original MOU” means the Memorandum of Understanding entered into by and between the Tribe and the City, dated as of October 14, 2003.

“Party” or **“Parties”** means individually and collectively the Tribe and the City.

“Payment Commencement Date” means the publication date of the Secretary’s approval of the 2023 Compact in the Federal Register pursuant to IGRA, 25 U.S.C. § 2710(d)(3)(B).

“Public Entity” means the State and any county, city, district, public authority, public agency and any other political subdivision or public corporation in the State, including, without limitation, the City.

“Quarter” means any one of the following three-month periods: January through March, April through June, July through September, and October through December.

“Renegotiation Request” is defined in Section 7.2 of this MOU.

“Reservation” means certain contiguous parcels totaling approximately 254 acres of land, including approximately 5 acres currently located within the City and another 68 acres currently located within the urban growth boundary of the City, which were taken into trust by the Bureau of Indian Affairs of the United States Department of Interior on October 1, 2010, or any portion of such land which is held by the United States of America in trust for the benefit of the Tribe, and any other land which is currently or subsequent to the Effective Date of this Agreement held by the United States of America in trust for the benefit of the Tribe.

“Restoration Act” means the Graton Rancheria Restoration Act (Pub. L. 106- 568).

“Rohnert Park Foundation” means the tax exempt 501(c)(3) non-profit organization incorporated under articles of incorporation dated November 6, 2008, for the purpose of providing funding in areas of need in the community of Rohnert Park and to fund projects to enhance and sustain the community of Rohnert Park, or successor foundation.

“Secretary” means the Secretary of the United States Department of the Interior or their designee.

“Special Enforcement Activities” means public safety activities including, but not limited to, combating gangs, illegal drug use and other criminal activity in the City.

“State” means the State of California.

“TEIR” means Tribal Environmental Impact Report.

“Tribe” means the Federated Indians of Graton Rancheria, a federally recognized Indian tribe.

“Trust Application” means the Tribe’s application to the Secretary, Case Number 33327, to take an additional approximately seventy-three (73) acres of land adjacent to the Reservation into trust on behalf of the Tribe.

“Wastewater JEPA” means the Joint Exercise of Powers Agreement for Wastewater Service, by and between the City and the Tribe, effective as of July 23, 2012.

“Wilfred Avenue JEPA” means the Joint Exercise of Powers Agreement for Implementing Mitigation Measures for Widening Wilfred Avenue, by and between the City, County and the Tribe, effective as of September 25, 2012.

“Workforce Housing Programs” includes programs, services and construction activities to support housing for households earning less than 120% of median household income of the Metropolitan Statistical Area in which Sonoma County is located, as established pursuant to Section 50093 of the California Health and Safety Code, as amended or any successor statute thereto.

2. RECURRING CONTRIBUTIONS

- 2.1 **MITIGATION CONTRIBUTION:** Following the Payment Commencement Date, the Tribe shall make a recurring contribution to the City of four million, fifty thousand dollars (\$4,050,000) per annum, in quarterly installments, to mitigate

impacts of the Tribe's Gaming Facility on the City, including but not limited to traffic, law enforcement, Special Enforcement Activities, problem gambling, storm water, public services, and any other impacts. It is expected that this contribution should be sufficient to mitigate all such impacts.

2.2 **COMMUNITY BENEFIT CONTRIBUTIONS:** Following the Payment Commencement Date, the Tribe shall make recurring contributions to benefit the community as follows:

2.2.1 **Supplemental:** The Tribe shall make a recurring contribution to the City of six million six hundred forty thousand dollars (\$6,640,000) per annum, in quarterly installments, to be used by the City to mitigate all other impacts of the Gaming Facility, if any, which are not fully mitigated by the contribution set forth in Section 2.1 of this MOU. To the extent that funds remain after all impacts of the Gaming Facility are fully mitigated, the remaining funds of this contribution may be used for the benefit and development of the community, including but not limited to the development of affordable housing.

2.2.2 **Workforce Housing and Neighborhood Upgrade:** The Tribe shall make a recurring contribution to the City of one million, three hundred thirty thousand dollars (\$1,330,000) per annum, in quarterly installments, to be used for Neighborhood Upgrade Programs or Workforce Housing Programs. The City shall submit a report to the Tribe annually, on or about March 1st, describing the proposed use of the funds provided pursuant to this Section 2.2.2. The Tribe shall have an opportunity to review and provide recommendations to the City on the proposed uses which shall be submitted to the City within forty-five (45) calendar days following the Tribe's receipt of the report. The City shall review and consider the Tribe's recommendations regarding the proposed use of said funds prior to use of the funds. The final decision regarding use of the funds provided pursuant to this Section 2.2.2 shall rest with the City in its sole discretion, with the exception of proposed uses for Workforce Housing Programs within a one (1.0) mile radius of the Gaming Facility, in which case the Tribe's consent to the use of Section 2.2.2 funds shall be required. For the avoidance of doubt, the Parties agree that nothing herein prohibits the City from using funds, other than the funds provided by the Tribe pursuant to this MOU, for Workforce Housing Programs within a one (1.0) mile radius of the Gaming Facility and the Tribe's consent is not required for the use of such other funds although the Tribe reserves the right to comment on or publicly object to any such projects.

2.2.3 **School Contribution:** The Tribe shall make a recurring contribution to the District of one million, three hundred thirty thousand dollars (\$1,330,000) per annum, in quarterly installments. The Tribe shall distribute these funds directly to the District. The Tribe's distribution of these funds to the District shall be conditional upon the approval by the Tribe, in its sole discretion, of

a spending plan for the funds which shall be submitted annually by the District to the Tribe. The Tribe hereby acknowledges and agrees that the City shall have no duty, obligation or responsibility to the Tribe or District to accept school contribution funds on behalf of, and thereafter distribute such funds to, the District.

- 2.2.4 **Rohnert Park Foundation:** The Tribe shall make a recurring contribution to the Rohnert Park Foundation of one million, three hundred thirty thousand dollars (\$1,330,000) per annum, in quarterly installments.

3. PAYMENT TERMS

- 3.1 **PAYMENTS.** The Tribe shall make equal quarterly payments to the City and District that total the annual amounts in Section 2 of this MOU within forty-five (45) days after the end of each Quarter. If the Payment Commencement Date occurs during a Quarter, the first payment shall be due on the forty-fifth (45th) day following the end of the first full Quarter and shall cover the period from the Payment Commencement Date to the end of the first full Quarter.
- 3.2 **PAYMENT SCHEDULE TRANSITION.** Payments pursuant to Section 2 of this MOU shall begin to accrue upon the Payment Commencement Date. Prior to the Payment Commencement Date, the City shall continue to receive payments through the Graton Mitigation Fund from the State in such amounts as provided pursuant to the First Amended MOU. Should the Payment Commencement Date occur during a Quarter, the Tribe's final payment obligations pursuant to the First Amended MOU shall be prorated to the Payment Commencement Date.
- 3.3 **CPI ADJUSTMENT.** All recurring contributions and deductions described in this MOU shall be increased annually by the CPI Adjustment, which shall be effective for distributions covering the quarter beginning on July 1, 2023, and annually thereafter. For the purposes of this MOU, the April-to-April index shall be effective to July 1st. In June of each year, the City shall calculate the CPI adjustments provided for in this Section 3.3 and prepare and provide to the Tribe an annual payment schedule indicating the contributions to be made within the four Quarters of that year pursuant to this MOU.
- 3.4 **PUBLIC ATTRIBUTION.** The City shall generally identify and publicly attribute mitigation measures and community investments and projects funded and supported by the Tribe, including, but not limited to, in the City budget process and in signage and printed materials, if any, concerning such investments and projects.

4. MEASURES TO ADDRESS EFFECTS OF EXPANSION ON CIRCULATION

The Parties acknowledge that the current understanding related to the timeline for the development of the Expansion project anticipates the following schedule of construction and occupancy; this timeline and whether individual components will be constructed is subject to change at the sole discretion of the Tribe:

(a) the construction of a parking garage will commence in approximately June 2023, and is to be completed approximately 12 months thereafter, and operational in approximately June 2024;

(b) the construction of an expanded gaming floor will commence in approximately June 2024, and is to be completed approximately 16 months thereafter, and operational in approximately October 2025;

(c) the construction of an expanded hotel will likely commence concurrently or after the completion of the expanded gaming floor construction and is to be completed approximately 18 months thereafter; and

(d) the construction of a new theater will likely commence after the completion of the expanded gaming floor construction and is to be completed approximately 18 months thereafter.

To facilitate the safe and efficient flow of vehicular, bicycle and pedestrian traffic within the City and in and around the Gaming Facility, the Parties have identified the following measures to maintain acceptable circulation operations following development of the Expansion project and other buildout in accordance with the City's general plan.

4.1 THEATER OPERATIONAL MEASURES.

Should the Tribe ultimately pursue the theater component of the Expansion, and prior to the occupancy and operation of said theater, the Tribe shall enter into an agreement with the City concerning the implementation of appropriate traffic control measures to facilitate the flow of vehicular traffic before and after events at the theater, as addressed by the TEIR as follows:

(a) consistent with TEIR Mitigation Measure 4.13-5, measures 1 and 2, provision of manual traffic control at the Wilfred Avenue/Langer Avenue and Golf Course Drive West/Labath Avenue intersections, as well as at any other intersections the Parties mutually identify, either pursuant to (i) an encroachment permit issued by the City to the Tribe and a private traffic control contractor hired by the Tribe and approved by the City, which approval shall not be unreasonably delayed or withheld, or (ii) the provision of traffic control services provided by City's public safety officers. Further, upon completion of the Dowdell Connection Improvement identified in Section 4.3.2 (a) below, the parties shall evaluate the need for manual traffic control at the Business Park Drive/Dowdell Avenue intersection; and

(b) provision of additional traffic control measures, as needed, to respond to traffic issues that may arise during events at the theater.

4.2 GOLF COURSE DRIVE AND LABATH AVENUE IMPROVEMENTS CONSTRUCTED BY TRIBE.

TEIR Mitigation Measure 4.13-2 identifies the need for the Expansion project to provide a dedicated, dual left turn movement from westbound Golf Course Drive at, and on to, Labath Avenue ("Golf Course Drive Improvement"). The Tribe agrees that it will

design, construct, and install the Golf Course Drive Improvement, inclusive of all modifications to traffic signals and striping, as well as provide for the dedication of all required right of way necessary to accommodate the Golf Course Drive Improvement, at its sole cost and expense. The Tribe shall complete the design, construction and installation of the Golf Course Drive Improvement, in accordance with City standards, prior to occupancy and operation of the expanded gaming floor, anticipated in October 2025.

The City will review and approve plans and specifications, to be prepared in accordance with City standards, and provide for the inspection of the Golf Course Drive Improvements. The City shall issue an encroachment permit to the Tribe for the construction and installation of the Golf Course Drive Improvement by the Tribe, and in connection therewith, the Tribe acknowledges and agrees that the encroachment permit will require the Tribe to comply with the following general conditions as shall be further outlined therein: (a) the Tribe shall post a performance bond and a labor and material bond, each in an amount equal to 100% of the cost of construction of the Golf Course Drive Improvement; (b) to the fullest extent allowed by law, the Tribe shall defend, indemnify and hold the City harmless from all claims arising from performance of the Golf Course Drive Improvement work, including, if applicable, claims relating to compliance with prevailing wage requirements of the California Labor Code and damages awarded pursuant to Section 1781 thereof; (c) the Tribe shall procure and maintain general liability and automobile liability policies of insurance of \$2,000,000 per occurrence, \$5,000,000 in the aggregate, in connection with the Golf Course Drive Improvement work, which policies shall be endorsed to name the City as an additional insured, stipulate that such insurance is primary and any insurance maintained by the City is non-contributing, apply separately to each insured against whom a claim is made, waive all rights of subrogation against City, and contain a cross liability/severability endorsement; (d) the Tribe shall maintain worker's compensation insurance as required by the State of California, which shall be endorsed to waive all rights of subrogation against the City; and (e) provide for the City's acceptance of the dedication of right of way required for the Golf Course Drive Improvement and the acceptance of the Golf Course Drive Improvement upon completion thereof.

4.3 CIRCULATION IMPROVEMENTS CONSTRUCTED BY CITY.

The City and Tribe desire to work together to provide for the implementation of circulation improvements to better serve their constituents. The Parties acknowledge that the City's general plan land use element, as well as specific plans adopted by City, provide for additional residential and commercial development within the City and in the vicinity of the Reservation, which coupled with the Expansion project, will affect vehicular, pedestrian and bicycle circulation in the community.

- 4.3.1 **Traffic Improvements.** The Parties acknowledge and agree that four (4) of the circulation improvements listed below in subsections (a)(i)-(iv), as identified by the TEIR Mitigation Measures 4.13-1, 4.13-3, and 4.13-5, Measures 3, 4, 5 and 6, are traffic improvements directly related to the Expansion. The Parties further acknowledge and agree that two (2) additional traffic improvements, as outlined in subsections (a)(v) and (b)

below, will help to support City circulation and may provide benefits to the Gaming Facility.

- (a) The Tribe agrees to contribute \$3,863,971 towards the improvements listed as subsections (i) through (v) (the “**Circulation Contribution**”) and the City agrees to use the Circulation Contribution to fund all or a portion of one or more of the improvements set forth in subsections (i) through (v).
 - (i) Golf Course Drive West/Redwood Drive Improvement
 - (ii) U.S. 101 South Offramp Improvement
 - (iii) U.S. 101 North Offramp Improvement
 - (iv) Automated Traffic Monitoring System Improvement
 - (v) Rohnert Park Expressway/Redwood Drive Improvement
- (b) In addition to the Circulation Contribution, the Tribe also agrees to donate a critical right-of-way (ROW) to enable the extension of Dowdell Avenue to Business Park Drive, as more particularly described and depicted in **Attachment 1** and the cross-section in **Attachment 2**. The City agrees to consult with the Tribe on the project design plans and the Parties will jointly determine the appropriate scope of the ROW. This shall occur prior to formalizing the ROW via legal instrument and securing any necessary federal approvals.

4.3.2 **Timing of Payments.** Commencing on October 1, 2023, and annually for two years thereafter, the Tribe shall pay the City the Circulation Contribution by depositing with City three (3) equal sums of \$1,287,990.67 ($\$3,863,971 \div 3$), which the City shall deposit into a segregated account.

4.3.3 **Timing of Installation of Improvements.** The Parties acknowledge and agree that the timing of the installation of the circulation improvements listed in Section 4.3.1 above may be impacted by a number of factors outside of the City’s control, including without limitation (i) coordination with and approvals by CalTrans and other agencies, and (ii) the acquisition of land for use as public right of way. Subject to the foregoing, City shall use good faith efforts to complete the design, construction and installation of the improvements identified the TIER as mitigation measures and listed in subsections 4.3.1 (a) (i), (ii), (iii), and (iv) above prior to December 2030.

5. TERM AND TERMINATION

5.1 **EFFECTIVE DATE.** This MOU shall become effective on the later to occur of the following events (the “**Effective Date**”):

- 5.1.1 This MOU has been approved by the City Council of the City, approved as to form by legal counsel for the City and executed and delivered by the City; and
 - 5.1.2 This MOU has been approved by the Tribal Council and the General Council of the Tribe, approved as to form by outside legal counsel to the Tribe, and executed and delivered by the Tribe.
- 5.2 **TERM.** Once effective, this MOU shall be in full force and effect until the date the 2023 Compact or any extension thereof expires or is terminated (“**Expiration Date**”). Notwithstanding the foregoing, the Expiration Date of this MOU shall be automatically extended for any period that Gaming Activities continue to be operated on the Reservation and the terms (including the Tribe’s obligation to make all payments due pursuant to this MOU) shall be in full force and effect until the Parties meet, confer and renegotiate new terms of a memorandum of understanding as provided for in Section 7 hereof. Based on the foregoing, the terms of this MOU shall expire when the Parties successfully renegotiate and adopt a new memorandum of understanding, thereby superseding this MOU.
- 5.3 **EFFECT OF EXPIRATION OR TERMINATION.** Upon the Expiration Date, as provided for in this Section 5.2, or termination, as provided for in Section 5.4, of this MOU, the provisions of this MOU shall be of no further force and effect and none of the provisions of this MOU shall survive such expiration or termination; provided, however, that the Tribe shall make contributions pursuant to the terms of this MOU which became due and payable prior to any Expiration Date; and provided, further, that, if this MOU terminates for reasons unrelated to a default by the City, the Tribe shall make any contributions pursuant to the terms of this MOU which became due and payable prior to such termination date.
- 5.4 **TERMINATION.** Unless otherwise agreed by the Parties, this MOU shall automatically terminate in the event, and on the date, that the Tribe permanently ceases the operation of all Gaming Activities on the Reservation.

6. SUSPENSION EVENTS

If, due to Force Majeure (as hereinafter defined), an act of God, valid business considerations or any other reason, 51% or more of all Gaming Activities conducted by the Tribe on the Reservation immediately prior to the Force Majeure event are suspended or terminated for a period of at least thirty (30) days, the Tribe’s obligations to make financial contributions pursuant to this MOU shall be suspended until such time as the Gaming Activities are resumed. For the purposes of this section, the term “**Force Majeure**” shall include, without limitation, the following circumstances that result in a suspension of 51% or more of all Gaming Activities previously conducted by the Tribe on the Reservation: earthquake; flood; fire; other natural disasters; changes in law, regulation, or governmental policy; riots; war; epidemic, pandemic or terrorism. Nothing in this section shall impact the Tribe’s liability for financial contributions which became due and payable prior to the date such Gaming Activities were suspended or terminated. When a Force Majeure event occurs, the Tribe shall provide written notice within seventy-two (72) hours of the

event that performance of its obligations is prevented or delayed, and within seventy-two (72) hours after Gaming Activities are resumed. Upon resumption, the Tribe shall not be responsible for contributions for the period of suspension, and any quarterly payments for such period(s) shall be prorated to reflect the suspension.

7. RENEGOTIATION PROVISION

7.1 RENEGOTIATION EVENTS. The City or the Tribe may request that the other Party renegotiate one or more of the provisions of this MOU if there is a change in law, facts, gaming market or other unforeseen circumstances that fundamentally change the City's or the Tribe's financially reasonable assumptions made in entering into this MOU ("**Fundamental Changes Renegotiations**"). Nothing in this section requires the Tribe to wait until revenues have been adversely impacted before requesting renegotiation. However, if the Tribe's revenues have not been adversely impacted at the time of its request to renegotiate, the Tribe will provide verifiable documentation to substantiate any anticipated loss of revenue. Examples of Fundamental Changes Renegotiations include, without limitation, a significant adverse impact on either the City's or the Tribe's financial assumptions such as the following:

- 7.1.1 any change in applicable laws or the opening of any competing gaming facility or operation that reduces or is anticipated to reduce the Tribe's actual revenues in the calendar year following the change in applicable law or opening of a competing gaming facility or operation by at least 25% from the Tribe's actual revenues in the calendar year preceding the change in applicable law or opening of a competing gaming facility or operation; and
- 7.1.2 a substantial reduction in the scope of all Gaming Activities permitted on the Reservation, whether pursuant to a change in federal, state or local constitutions, laws, rules or regulations, or amendment of the Compact.

7.2 FUNDAMENTAL CHANGES RENEGOTIATION PRINCIPLES. The Parties acknowledge and agree that the principal goals of federal Indian policy as expressed by the Congressional findings set forth in IGRA include providing a means of promoting tribal economic development, self-sufficiency, and strong tribal governments (25 U.S.C. § 2701(4)). On the other hand, provision of benefits to the surrounding community above and beyond the costs of mitigation of any negative impacts of a gaming operation is a policy choice of the Tribe. Therefore, a principle of any negotiations under this section shall always be that while mitigation of any negative impacts of the Gaming Facility on the City, as provided in Sections 2.1 and 4 of this MOU, is an obligation of the Tribe, the community benefit contributions of Section 2.2 of this MOU depend on the Tribe's ability to make such contributions. Nevertheless, in no event shall such Fundamental Changes Renegotiations result in the contributions provided to the City and County to be less than 2% of Net Win as required by Section 11.1 of the 2023 Compact, and any reductions to the City will be by a percentage equal to or less than the percentage reduction to the County.

7.3 **FUNDAMENTAL CHANGES RENEGOTIATION PROCEDURES.** All requests to enter into Fundamental Changes Renegotiations shall be by written notice, supported by substantial evidence of the basis for such request, and shall include reference to the provision(s) of this MOU to be renegotiated (“**Renegotiation Request**”). Upon the issuance and receipt of a Renegotiation Request, the Parties shall attempt to renegotiate this MOU in good faith. The Parties shall confer promptly and determine a schedule for commencing negotiations within fifteen (15) days of the notice. Each Party is hereby authorized to designate the person or persons responsible for conducting the negotiations and shall execute any documents necessary to confirm such authorization. The purpose of the Fundamental Changes Renegotiations will be to attempt to renegotiate the provision(s) of this MOU identified in the Renegotiation Request in good faith so that the Parties retain substantially the same rights, levels of mitigation, and community benefits contemplated as of the date of this MOU. If the Parties are unable to agree upon the dollar amounts necessary to maintain substantial mitigation of impacts and a mutually agreeable level of community investments (if any) within one hundred and eighty (180) days of commencing Fundamental Changes Renegotiations, the Parties may trigger the dispute resolution provisions contained in Section 11.

8. EXPANSION OF GAMING FACILITY

It is the intention of the Parties that this MOU shall serve as an Intergovernmental Agreement between the Parties regarding the Expansion of the Tribe’s Gaming Facility as more fully described in the Notice of Preparation published on or about April 4, 2022, and in the Final TEIR published on or about May 8, 2023 (the “**Expansion**”). The City does not object to the Expansion. To the extent that Section 11 of the 2012 Compact, regarding off-reservation environmental and economic impacts, remains in effect and is valid and enforceable, which is not conceded by the Parties, the Parties agree that the requirement of subsection 11.8.4 of the 2012 Compact, requiring that fifty-five (55) days have passed from the Tribe’s certification and circulation of its final TEIR before the completion of negotiations for an Intergovernmental Agreement, shall be and is hereby waived. Further, in the event that this Agreement is not fully executed until after groundbreaking for the Expansion has occurred, the Parties agree that the requirement of subsection 11.8.7 of the 2012 Compact requiring an intergovernmental agreement to be executed prior to commencement of construction shall also be and is hereby waived.

9. TRIBE’S TRUST APPLICATION

The City recognizes and honors the fact that all the land that comprises and surrounds what now constitutes the City of Rohnert Park is the aboriginal and historic homeland of the Tribe, that the Reservation represents a small fraction of the Tribe’s homeland, and that the Restoration Act contemplates and provides the Tribe the right to have lands in the counties of Sonoma and Marin taken into trust for its benefit. The Tribe appreciates the City’s position in this matter and its strong statement of support for the Trust Application. In keeping with Government Code § 54260 *et seq.*, which expresses the policy of the State of California to support tribal self-determination and self-government and to reduce barriers to access and acquisition of ancestral lands by tribes, it is the policy of the City to be supportive of applications by the Tribe for additional parcels of land to be

taken into trust for its benefit. Specifically, the City agrees to meet and confer in a good faith attempt to resolve any potential concerns with future trust applications submitted by the Tribe during the term of this MOU.

10. SEVERABILITY

Notwithstanding any provision of California law to the contrary, if any provision of this MOU is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, this MOU shall be construed and enforced as if such void, illegal, invalid, or unenforceable provision had never comprised a part of this MOU, and the remaining provisions of this MOU shall remain in full force and effect and shall not be affected by the void, illegal, invalid, or unenforceable provision or by its severance from this MOU. Similarly, notwithstanding any provision of California, Federal or Tribal law to the contrary, if any provision of this MOU requires the City, Tribe, or any other Public Entity to take any action which has not been taken in connection with the approval of this MOU or otherwise, or subjects this MOU to the referendum or initiative process under California law, this MOU shall be construed and enforced as if such provision had never comprised a part of this MOU, and the remaining provisions of this MOU shall remain in full force and effect and shall not be affected by the applicable provision or by its severance from this MOU. In the event that the entire MOU is declared void, illegal, invalid, unenforceable or unauthorized, the Parties shall enter into good faith negotiations to negotiate a new agreement that maintains the expectation of each Party in entering into this MOU. If any of the events referenced in this section occurs, the Parties shall endeavor in good faith negotiations to replace the applicable provision or provisions with a substitute provision, the economic and other effects of which comes as close as possible to that of the provision which has been severed. Such negotiations shall be conducted pursuant to the provisions of Section 7.3 of this MOU.

11. DISPUTE RESOLUTION PROVISIONS

11.1 DISPUTE RESOLUTION. To foster good government-to-government relationships and to assure that the Tribe is not unreasonably prevented from engaging in and benefiting from gaming and other commercial activities on the Reservation, and the City is able to ensure that the off-reservation impacts of the Gaming Facility are fully mitigated, the Parties agree to the dispute resolution procedures set forth in this section.

11.2 MEET AND CONFER. The Parties shall make their best efforts to resolve claims arising under this MOU by good faith negotiations whenever possible. Any such disputes between the Parties shall first be subjected to a process of meeting and conferring in good faith to foster a spirit of cooperation in the implementation of the terms of this MOU as follows:

11.2.1 A Party shall give the other Party, as soon as possible after the event giving rise to the dispute, written notice setting forth, with specificity, the claims of breach of this MOU.

11.2.2 The Parties shall meet and confer in a good faith attempt to resolve such dispute through negotiation not later than 10 days after the receipt of notice, unless the Parties agree in writing to an extension of time.

11.3 **MEDIATION OR OTHER DISPUTE RESOLUTION.** If such dispute is not resolved to the satisfaction of the Parties, the Parties may, by mutual agreement, pursue mediation or any other method of dispute resolution; provided, however, that no Party is under an obligation to agree to such mediation or other method of dispute resolution.

11.4 **BINDING ARBITRATION.** If such dispute is not resolved to the satisfaction of the Parties within thirty (30) calendar days after either the first meeting or after any other dispute resolution under section 11.3, or such other extended period as the Parties may agree in writing, then the Parties may seek to have the dispute resolved by binding arbitration in accordance with the following procedures:

11.4.1 Upon the request of a Party in writing, the dispute shall be submitted to binding arbitration in accordance with this Section 11.4.

11.4.2 The disputes to be submitted to arbitration shall be limited to claims arising under this MOU and which were subject to the meet and confer in Section 11.2 of this MOU.

11.4.3 In the event there is any dispute as to whether a matter is subject to the arbitration provisions of this MOU, or any dispute concerning the scope of the matter or matters to be arbitrated, the disagreement as to whether the dispute is subject to the arbitration provisions of this MOU or the scope of such arbitration shall be submitted to the arbitrator referenced in Section 11.4.5, below.

11.4.4 The arbitration shall be conducted before a single arbitrator in accordance with the JAMS Streamlined Arbitration Rules (or such other streamlined arbitration rules as the Parties may agree), as modified by the provisions of this MOU.

11.4.5 The arbitrator shall be selected by the Parties. If at such time the Parties are unable to agree upon the selection of a single arbitrator, then each Party shall name one arbitrator and the two arbitrators thus selected shall select a third arbitrator who shall be a retired California Superior Court or United States District Court judge; provided, however, if either Party fails to select an arbitrator within fourteen (14) days of delivery of the request for arbitration, then the arbitrator selected by the other Party shall conduct the arbitration.

11.4.6 The arbitration shall take place in Sonoma County, or another location mutually agreed upon by the Parties.

- 11.4.7 The provisions of Section 1283.05 of the California Code of Civil Procedure shall apply; provided that no discovery authorized by that section may be conducted without leave of the arbitrator.
- 11.4.8 Each side shall bear its own costs, attorneys' fees, and one-half the costs and expenses of the arbitrator.
- 11.4.9 The decision of the arbitrator should be made within thirty (30) days of the arbitration. The decision shall be in writing and shall give reasons for the decision.
- 11.5 **DAMAGES.** The Parties agree that any monetary damages awarded or arising under this MOU shall be exclusively limited to actual direct damages incurred based on obligations contained in this MOU that have been demonstrated with substantial certainty and which do not, in any event, exceed the total amount of the annual financial contributions which the Tribe is required to make to the City under the MOU. In no instance shall the Parties to this MOU be entitled to special, incidental, indirect, consequential, or punitive damages, lost profits or attorneys' fees. The Parties agree not to assert any claim for damages, injunctive, or other relief which is not consistent with the provisions of this MOU.
- 11.6 **CONFIRMATION OF AWARDS.** Any Party to an arbitration in which an award has been made pursuant to this section may petition the Federal District Court for the Northern District of California or the Superior Court of California for the County of Sonoma or any other court of competent jurisdiction to confirm the award, including any appellate proceedings. The Parties expressly consent to the jurisdiction of such Courts for the purpose of confirmation of such an award. An award shall be confirmed, provided that:
- 11.6.1 The award is limited to the purposes of arbitration stated in this Section.
- 11.6.2 No person or entity other than the Parties is a party to the action, unless failure to join a third party would deprive the court of jurisdiction; provided, however, that nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Parties in respect to any such third party.
- 11.6.3 If an award is confirmed, judgment shall be entered in conformity with the award. The judgment so entered has the same force and effect as and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced like any other judgment of the court in which it is entered.
- 11.7 **INTERVENTION.** Nothing in this MOU shall be construed to constitute a waiver of the sovereign immunity of the Tribe or the City with respect to intervention by any additional party not deemed an indispensable party to the proceeding.
- 11.8 **CONFIDENTIALITY.** Unless otherwise agreed by the Parties, any dispute resolution meetings or communications, or mediation, shall be in the context of a

settlement discussion to potential litigation and remain confidential to the extent not prohibited by applicable law.

12. WAIVER OF SOVEREIGN IMMUNITY

Pursuant to General Council Resolution #23-18 and subject to the provisions of this Section, the Tribe expressly and irrevocably waives sovereign immunity (and any defenses based thereon) in favor of the City, but not as to any other person or entity, as to any dispute which specifically arises under this MOU and not as to any other action, matters or disputes. The Tribe does not waive its sovereign immunity with respect to (a) actions by third parties; or (b) disputes between the Tribe and the City which do not specifically arise under this MOU. The Tribe further agrees that exhaustion of administrative remedies, including before any tribal court, shall not be required prior to proceeding to arbitration or court action under Section 11.

13. REPRESENTATIONS AND WARRANTIES

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

- 13.1 **AUTHORITY.** Such Party has the legal power and authority to execute and deliver this MOU and to perform its obligations under this MOU.
- 13.2 **DUE AUTHORIZATION.** The approval, execution, and delivery of this MOU, and waiver of sovereign immunity, and the performance by such Party of its obligations under this MOU, have been authorized by all requisite actions of such Party.
- 13.3 **DUE EXECUTION AND DELIVERY.** The persons executing this MOU on behalf of such Party are duly authorized to execute and deliver this MOU on behalf of such Party.
- 13.4 **ENFORCEABILITY.** This MOU constitutes the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms, and, once executed and delivered, cannot be invalidated pursuant to any subsequent action of the City Council of the City or the Tribal Council or General Council of the Tribe, as applicable.
- 13.5 **NO CONFLICT.** The approval, execution, delivery, and performance of this MOU does not conflict with any other agreement to which such Party is a party and does not violate or require any action which has not been taken under any law, statute, rule, regulation, ordinance, general plan, tribal law, specific plan or court order or decree applicable to such Party.
- 13.6 **WAIVERS.** A waiver of any breach of any provision of this MOU shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision operate as a waiver of such provision or of any other provisions.

14. GENERAL PROVISIONS

- 14.1 **NO SUBMISSION TO JURISDICTION.** The Parties acknowledge and agree that this MOU, except as otherwise specified, is not intended to constitute, and shall not be construed as constituting, a submission by the Tribe to the jurisdiction of (a) the City or any of its subdivisions, departments or courts, (b) any of its or their respective officials, employees, inspectors or contractors, or (c) any of its or their respective laws, rules, regulations, ordinances, general plans or specific plans.
- 14.2 **THIRD PARTY MATTERS.** This MOU is not intended to, and shall not be construed to, create any right on the part of any third party to bring any action or otherwise enforce any of its terms.
- 14.3 **NOTICE.** All notices required by this MOU shall be deemed to have been given when made in writing and delivered or mailed to the respective Parties and their representatives at their respective addresses as set forth below or such other addresses as they may provide to the other Party from time to time:

For the City:

City of Rohnert Park
130 Avram Avenue
Rohnert Park, California 94928
Attn: City Manager
Telephone: (707) 588-2226
Facsimile: (707) 792-1876

With copies to:

Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612
Attn: Michelle Marchetta Kenyon
Telephone: (510) 273-8780
Facsimile: (510) 839-9104

For the Tribe:

Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, CA 94928
Attn: Chairperson
Telephone: (707) 566-2288
Fax: (707) 566-2291

With copies to:

Maier Pfeffer Kim Geary & Cohen, LLP

1970 Broadway, Suite 825
Oakland, CA 94612
Attn: Bethany C. Sullivan
Telephone: (510) 835-3020
Fax: (510) 835-3040

- 14.4 **GOVERNING LAW.** This MOU shall be governed by, and construed in accordance with, the laws of the State of California.
- 14.5 **CONSTRUCTION OF AGREEMENT.** This MOU, including all recitals, constitutes the entire agreement between the Parties and supersedes all prior negotiations, representations, drafts regarding this MOU, whether written or oral, and all prior agreements and memoranda of understanding concerning mitigation of impacts of the Gaming Facility and the Expansion, including the First Amended MOU. In the event of a dispute between the Parties as to the language of this MOU or any amendment to this MOU or the construction or meaning of any term contained in this MOU or any amendment to this MOU, this MOU or any amendment to this MOU shall be deemed to have been drafted by the Parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against, or in favor of, either Party based on the preparation or negotiation of this MOU or any amendment to this MOU. The headings contained in this MOU are for convenience of reference only and shall not affect this MOU's construction or interpretation.
- 14.6 **BINDING AGREEMENT.** This MOU is intended to be, and shall be construed to be, binding upon the Parties and all successors and successors-in-interest of each Party, including all officers, agents and employees, and, in the case of the City, future City Councils, and, in the case of the Tribe, future Tribal Councils or General Councils.
- 14.7 **JOINT EXERCISE OF POWERS AGREEMENTS.** The Parties hereby acknowledge and agree that the terms of this MOU shall have no effect upon the terms, conditions, validity or enforceability of the Wastewater JEPAs and Wilfred Avenue JEPAs, which remain in full force and effect in accordance with their terms.
- 14.8 **COUNTERPARTS; ELECTRONIC SIGNATURES.** This MOU may be signed in multiple counterparts which, when signed by all Parties, shall constitute a binding agreement. The Parties further agree that this MOU may be executed and delivered by electronic signatures and that the signatures appearing on this MOU are the same as handwritten signatures for purposes of validity, enforceability and admissibility.
- 14.9 **ENVIRONMENTAL REVIEW.** Nothing in this Agreement contemplates or commits the City to any project which may result in a potentially significant physical impact on the environment. If and to the extent the City hereafter determines that it is required to comply with CEQA with respect to any "project"

(as such term is defined in CEQA) which causes a physical change in the environment, the City fully intends to comply with CEQA at such time.

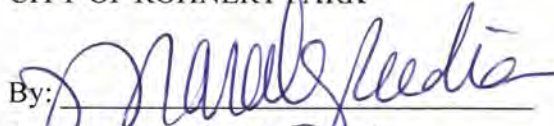
14.10 **AMENDMENTS.** This MOU may be modified or amended only by mutual and written agreement of the Parties.

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IN WITNESS WHEREOF, the Parties have executed this MOU as of the date first set forth above.

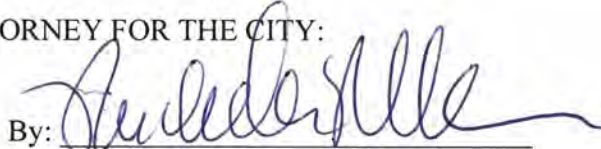
CITY OF ROHNERT PARK

Date: 6/28, 2023

By: 
Name: Marcela Piedra
Its: City Manager

APPROVED BY CITY ATTORNEY FOR THE CITY:

Date: 6/26, 2023

By: 
Michelle Marchetta Kenyon, Esq.
Burke, Williams & Sorensen, LLP


FEDERATED INDIANS OF GRATON RANCHERIA

Date: June 26, 2023

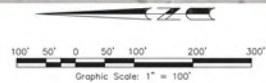
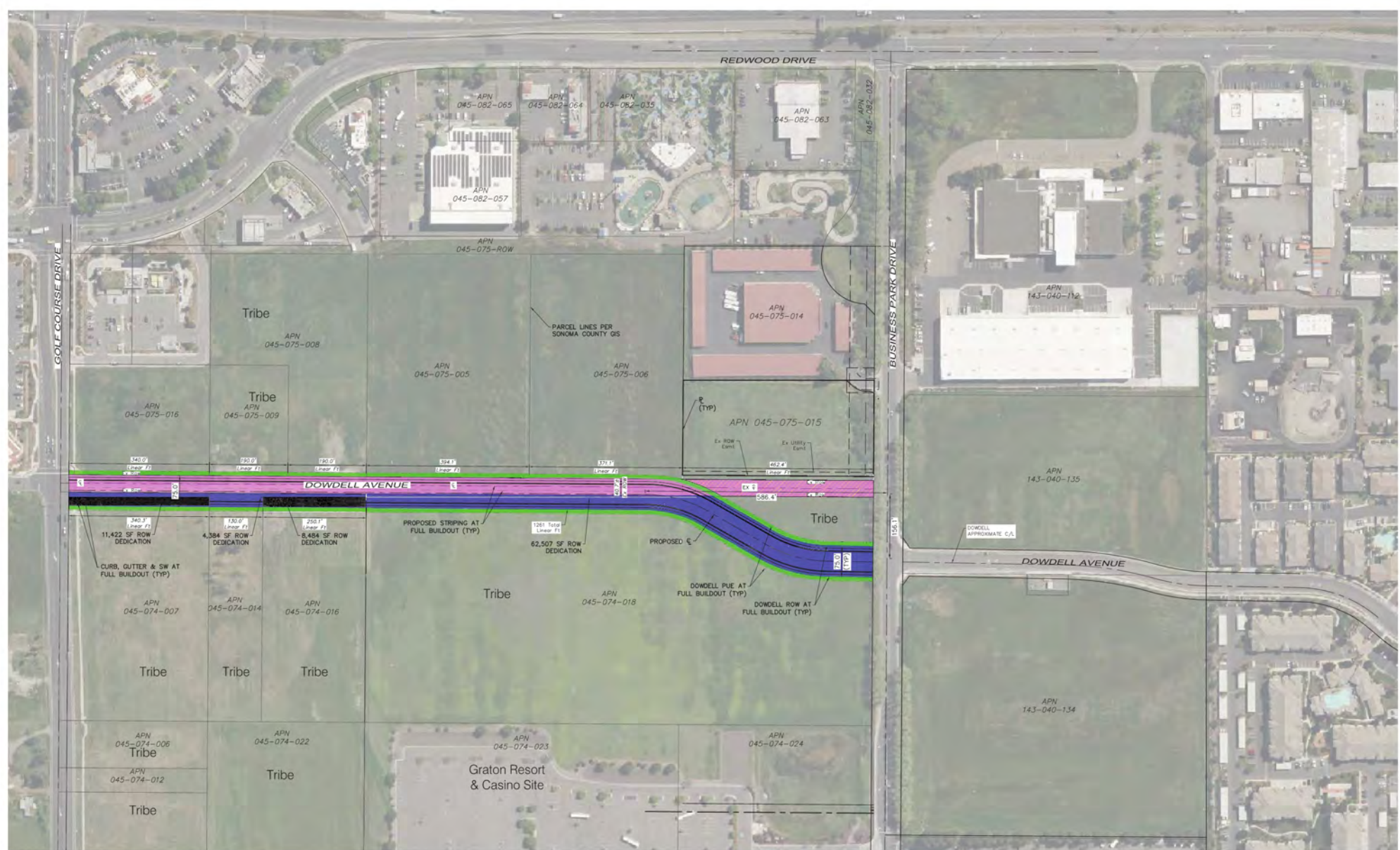
By: 
Greg Sarris
Chairperson





APPROVED BY LEGAL COUNSEL FOR THE TRIBE:

Date: June 25, 2023

By: 
Bethany C. Sullivan, Esq.
Maier Pfeffer Kim & Geary, LLP

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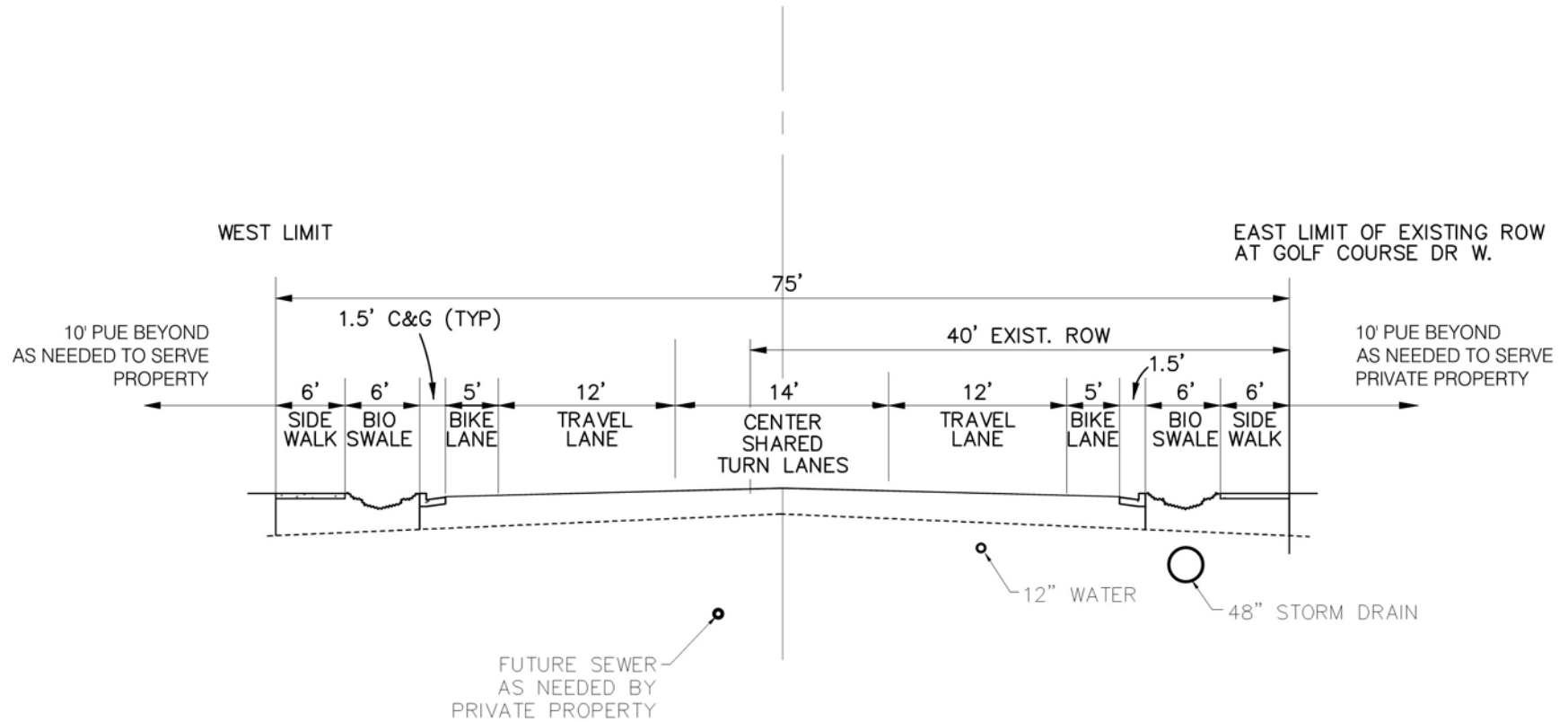


	EXISTING DOWDELL ROW		EXISTING ROW (TO BE RETAINED FOR UTILITIES)
	FUTURE EXPANDED ROW AT FULL BUILDOUT		10.0' PUE

Dowdell Prelim Road Exhibit

City of Rohnert Park
130 Avram Ave, Rohnert Park, CA

May 19, 2023



DOWDELL AVE

BUSINESS PARK DRIVE TO GOLF COURSE DRIVE W.

TYPICAL NON-INTERSECTION
NTS

NOTE:
TYPICAL SECTION WILL
VARY AT INTERSECTIONS

SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING

BY AND BETWEEN

THE CITY OF ROHNERT PARK

AND THE FEDERATED INDIANS OF GRATON RANCHERIA

DATED AS OF: June 27, 2023

EFFECTIVE AS OF: June 27, 2023