

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE COUNTY OF SAN DIEGO AND  
THE PALA BAND OF MISSION INDIANS  
PURSUANT TO SECTION 10.8 OF PALA'S TRIBAL-STATE GAMING  
COMPACT**

This Agreement ("Agreement") is entered into this first day of August, 2007, between the County of San Diego, a political subdivision of the State of California ("County"), and the Pala Band of Mission Indians, a federally recognized Indian Tribe located within the geographical boundaries of the County of San Diego, State of California ("Tribe"). The County and the Tribe shall be collectively referred to as the "Parties".

**RECITALS**

A. The Board of Supervisors of the County of San Diego and the Tribal Council of the Pala Band of Mission Indians recognize that each is a sovereign governmental entity with responsibility for the welfare of its people.

B. The County recognizes that all lands title to which are held in trust by the United States for the Tribe within the geographical boundaries of San Diego County (the "Reservation") are subject to Pala Tribal and applicable federal laws and regulatory authority. The Tribe recognizes that non-trust unincorporated lands located in San Diego County are subject to State law and County regulatory authority.

C. The County and the Tribe recognize that residents of the Reservation and the residents of San Diego County are neighbors with legitimate concerns over safety, development, and the character of life in San Diego County.

D. In 1988, Congress enacted the Indian Gaming Regulatory Act (P.L. 100-497, codified at 18 U.S.C. § 1166 *et seq.* and 25 U.S.C. § 2701, *et seq.*) ("IGRA") to regulate certain gaming on Indian lands in the United States. IGRA provides a regulatory framework for the operation of gaming by Indian tribes as a means, among other things, of promoting tribal economic development, self-sufficiency, and strong tribal government.

E. IGRA allocates regulatory authority over gaming among the federal government, the state in which a tribe has Indian land, and the tribe itself. IGRA makes Class III gaming activities lawful on the lands of federally-recognized Indian tribes only if such activities are, among other things, conducted in conformity with a tribal-state compact entered into between the Indian tribe and the state and approved by the Secretary of the Interior.

F. On September 10, 1999, the Tribe and the Governor of California entered into a tribal-state gaming compact (the "Compact") to permit the Tribe to conduct Class III gaming activities on its trust lands in compliance with IGRA. A Compact Amendment was approved by the Governor on June 21, 2004, ratified by the California State Legislature on July 1, 2004, and approved by the U.S. Department of the Interior on August 20, 2004.

G. Pursuant to IGRA and the Compact as amended, the Tribe intends to develop a two-story approximately 98,000 square foot expansion ("the Casino Expansion Project") of the existing Pala Casino and Hotel facility, to be located at currently paved parking areas and landscaped areas west of and adjacent to the existing Casino and Hotel facility. Approximately 44,700 square feet is to be devoted to gaming with 250 additional slot machines, and 53,300 square feet is to contain food service facilities, administrative areas, and indoor storage.

H. The Parties acknowledge that the Tribe's on-Reservation compact-related activities are not subject to the California Environmental Quality Act ("CEQA"). Pursuant to Section 10.8.1 of the Compact as amended, the Tribe caused to be prepared a Tribal Environmental Impact Report before the commencement of any planned expansion of its Gaming Facility. The Tribe issued a Notice of Preparation of a Draft TEIR on June 9, 2006 and subsequently issued the Draft TEIR on November 28, 2006. Public Notice was provided pursuant to the Compact. The County and the public reviewed and commented on both the Notice of Preparation and the Draft TEIR.

I. Section 10.8.8 of the Compact as amended requires the Tribe to negotiate with the County of San Diego and to enter into agreements containing provisions providing for the timely mitigation of any significant effect on the off-Reservation environment where such effect is attributable in whole or in part to the Casino Expansion Project unless the parties agree the particular mitigation is infeasible; relating to compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided by the County to the Tribe as a consequence of the Casino Expansion Project; providing for reasonable compensation for programs designed to address gambling addiction; and providing for mitigation of any effect on public safety attributable to the Casino Expansion Project.

J. The Tribe and the County have a longstanding, government-to-government relationship based on mutual respect and consideration of their respective jurisdiction, laws, regulations and duties to their citizens.

**NOW, THEREFORE**, the Parties hereby agree that this Agreement shall satisfy the requirements of Section 10.8.8 of the Amended Compact and sets forth (1) the County and Tribe's obligations in providing Mitigation Measures for any potentially Significant Effect on the Off-Reservation Environment; (2) the provisions relating to compensation for law enforcement, fire protection, emergency medical services and any

other public services to be provided by the County to the Tribe as a consequence of the Casino Expansion Project; (3) provisions providing for reasonable compensation for programs designed to address gambling addiction; (4) provisions providing for mitigation of any effect on public safety attributable to the Casino Expansion Project; and (5) a continued strengthening of the government-to-government relationship between the County and the Tribe.

## **A. MITIGATION MEASURES ASSOCIATED WITH THE PROJECT**

In preparing the Final Tribal Environmental Impact Report, the Tribe and the County met several times, including meetings between technical staff, to analyze the impacts of the Casino Expansion Project on the off-Reservation environment. In compliance with the Compact as amended, the parties analyzed each of the matters set forth in Section 10.8.1 of the Off-Reservation Environmental Impact Analysis Checklist. The parties agree that implementation of the following mitigation measures will address the off-Reservation environmental impacts of the Casino Expansion Project.

Unless otherwise stated, all mitigation measures, including first annual payments where annual payments are to occur, shall be performed by Tribe, and Tribe shall inform the County in writing of the completion of such measures, prior to the earlier of the following events: completion of the entire Casino Expansion Project, or Tribe's placing in operation a total of 2,400 Class III slot machines in the Casino and Casino Expansion combined. Tribe presently has fewer than 2,400 Class III slot machines in operation. As Tribe adds Class III slot machines to its Casino facilities, Tribe agrees to report the additional Class III slot machines to the County up to a total of 2,400 Class III machines.

County shall notify Tribe in writing of any concerns or need for clarifying information regarding completion of the mitigation measures contained in this Agreement. Tribe agrees to respond to requests for clarifying information and to cooperate with County in resolving concerns County may raise. In addition, Tribe shall promptly respond to County inquiries concerning compliance with mitigation measures set forth below that are to be complied with during future operation of the expanded Casino.

### **1. Aesthetics**

New exterior lighting will be designed and constructed so as to meet or exceed standards consistent with the County's Dark Skies Ordinance.

### **2. Air Quality/Transit**

- a) Utilize construction dust suppression measures. During construction of the Casino Expansion Project, the Tribe shall require that contractors utilize standard techniques for dust suppression, such as watering of active construction areas,

application of surfactants to exposed soils, limiting of truck speeds on unpaved surfaces, and prohibiting grading activities if wind speeds exceed 25 miles per hour to minimize contribution of PM<sub>10</sub> to the atmosphere. Tribe shall exercise reasonable measures to prevent dust from becoming a nuisance to off-Reservation residents and motorists on SR-76 and nearby County roads.

- b) Sweep construction soil from roads. If soil material is carried over to adjacent roads, Tribe will assure the roads are swept in a timely manner.
- c) Utilize low-emission construction equipment. During construction, whenever reasonably available and feasible, low-sulfur diesel equipment and electric equipment will be utilized.
- d) Avoid use of portable generators. For construction activities, Tribe will use reasonable efforts to use only commercial electrical power in order to avoid and or minimize the use of portable gasoline and diesel engine generators.
- e) Encourage use of buses/vans. Tribe will continually seek ways to expand the availability of van/bus services for Casino Guests, to reduce individual vehicular traffic levels, and where reasonably feasible, Tribe will contract with companies that use low-emission vehicles.
- f) Encourage employee carpooling. Tribe will continue to encourage employees to carpool, vanpool or rideshare and provide ride-matching services.
- g) Consider future transportation demand management and transit improvement recommendations. Though specific recommendations have not been determined, Tribe agrees to consider implementation of recommendations once they have been formulated for the following:
  - (1) Transportation Demand Management Program – being developed by San Diego Association of Governments (SANDAG) and the Reservation Transportation Authority (RTA).
  - (2) Park and Ride/Transit Facility at I-15/SR76 intersection - being considered by SANDAG.
  - (3) Interregional Transit Service Plan – being developed by Riverside and San Diego county transit agencies.
- h) Support improvements to North County Transit bus stop. If the use of bus service increases and an additional bus stop bench is warranted, Tribe agrees to install an additional bus stop bench (Wabash Valley bench, 8-foot long, royal blue, model #

PP307D). For the expanded Casino, Tribe will provide pedestrian access equivalent to what currently exists from the bus stop to the existing Casino.

### **3. Hazardous Materials**

Tribe shall enter into a new contract with the County Office of Emergency Services (OES), Hazardous Incident Response Team (HIRT), for hazardous materials emergency response services. A copy of the contract is attached hereto as Appendix A. Tribe shall pay County annually the amount of \$5,000 for the HIRT contract, with adjustments every two years consistent with changes in the Consumer Price Index for All Urban Consumers in the San Diego, California area (CPI Index), but in no event shall the annual increase be greater than 5% each year.

### **4. Water Resources**

a) Groundwater. To avoid impacts to the off-Reservation areas of the Pala Basin, the Tribe agrees as follows:

- (1) For the Casino Expansion Project's groundwater requirements, no new wells shall be placed in the area designated in Appendix B.
- (2) All wastewater treatment plant effluent shall be disposed of via on-Reservation percolation ponds, or, in the alternative, the effluent shall be reclaimed for beneficial use such as landscaping and agricultural uses within the Pala Basin.

b) Storm Water – Tribe shall:

- (1) Assure the use of appropriate construction best-management-practices (BMPs) at the Casino Expansion Project construction site to prevent off-Reservation water quality impacts throughout the duration of construction.
- (2) Assure that the construction contractor has prepared and implements a storm water pollution prevention plan (SWPPP) to meet Environmental Protection Agency (EPA) NPDES requirements.
- (3) Assure that runoff that goes off-Reservation from the parking and roof areas is treated via filters and oil-water separators.

### **5. Noise**

a) Traffic Noise. Tribe shall not allow concentrated, heavy, truck traffic associated with construction of the Casino Expansion Project from 10 p.m. to 7 a.m.

- b) Backup electrical generator testing. After the Casino Expansion Project's backup generators are installed, testing will not be performed from 7 p.m. to 7 a.m.

## 6. Traffic

Tribe and County agree that a combination of mitigation measures is required to adequately address potential traffic impacts. Although several of the Air Quality/Transit mitigation measures identified in Section A.2 are expected to reduce the traffic volume generated by the Casino Expansion Project, additional traffic, primarily between I-15 and the Pala Casino, will result from the project. To enhance traffic safety and reduce congestion at the I-15/SR76 interchange, on SR76 between the I-15 and the Pala Casino/Spa frontage, and along the Pala Casino/Spa frontage, Tribe agrees and County supports the following improvement projects:

- a) Fair Share Contributions to I-15/SR76 Interchange Improvements. Tribe shall enter into an agreement with Caltrans and County to provide fair-share contributions to Caltrans for improvements to the I-15/SR76 interchange. For the purpose of this Agreement, "fair-share" shall mean a percentage derived by taking the trips generated by the Pala Casino as a percentage of total trips of all users. For example, if total trips at the interchange average 20,000 and Pala Casino generated trips total 2,000, the Tribe's fair share of the costs of the improvements would be 10%.
- b) Financial Support to Assure SR76 Widening and Realignment from I-15 to Rosemary Mountain Quarry Entrance. Tribe shall enter into an agreement with Granite Construction Company to provide \$13,000,000 in financial support to Granite Construction Company to facilitate widening and realigning SR76 from the I-15 easterly to the Rosemary Mountain Quarry entrance, a distance of approximately 1.3 miles.
- c) SR76 Operational Improvements between Rosemary Mountain Quarry Entrance and Pala Casino Frontage. Tribe agrees to pay up to \$20,000,000 to Caltrans for improvements to SR76 that will enhance safety and relieve congestion on SR76. Such improvements may include passing lanes, turnouts, shoulder widening, curve realignment, and intersection improvements. Tribe agrees to act reasonably in developing with Caltrans proposed improvements to SR76. Notwithstanding anything else to the contrary in this Agreement, when Caltrans has provided Tribe with proposed improvements, the Tribe has the right in its sole and absolute determination to agree or to disagree with the desired improvements. If the Tribe does not agree with a project proposed by Caltrans, such project shall not be funded by any portion of the \$20,000,000. Tribe shall only pay Caltrans for an improvement to SR76 after a written agreement concerning that project has been entered into between Caltrans and the Tribe. If agreement between Tribe and Caltrans has not been reached as to the use of the \$20,000,000, or any part thereof,

by June 30, 2010, Tribe shall no longer be obligated to pay for improvements pursuant to this paragraph 6.c.

- d) Pala Casino/Spa SR76 Frontage Improvements. Tribe shall improve SR76 in accordance with Caltrans and County requirements along an approximately one mile segment of SR76 approaching the Casino Expansion Project and along the Casino frontage, from just east of Gomez Bridge to just west of Pala Bridge. Improvements may include an additional through lane in each direction, turn lanes, a second signalized intersection for ingress and/or egress for the Casino/Hotel, and landscaped medians. County agrees to expeditiously process all applications and submittals by Tribe for such improvements, and agrees to coordinate such improvements with Caltrans in order to allow the Tribe to expeditiously begin the construction of such improvements. At this time, the approximate cost of the improvements is \$5,000,000. County agrees to accept all submissions to Caltrans in place of any additional encroachment submissions they would otherwise require.
- e) All-Weather Crossings on Pala Mission Road. Within 12 months from the date of this Agreement, County will construct all-weather crossings to replace two dip sections on Pala Mission Road. County agrees to identify funds required in combination with uncommitted funds remaining from the August 6, 2003 Cooperative Agreement with Pala/County to fund the construction cost of the project.

## **7. Wastewater Treatment**

- a) Tribe shall construct a state-of-the-art Sequence Batch Reactor (SBR) wastewater treatment plant (WTP) to the satisfaction of Pala EPA that will replace the existing WTP and treat existing flows plus flows from the Casino Expansion Project. The new plant will be on-Reservation adjacent to the existing plant. Treatment will be to tertiary treatment standards. County agrees to expeditiously process all applications and submittals by Tribe for an encroachment permit required for any part of the new WTP.
- b) All of the new WTP's effluent shall be disposed of via on-Reservation percolation ponds or be reclaimed for beneficial use such as landscaping and agricultural uses.
- c) Tribe shall dispose of sludge off-Reservation at appropriately permitted landfills in accordance with applicable federal, state and local laws.

## **8. Solid Waste**

- a) Solid waste that is not diverted for recycling/reuse will be disposed of only at permitted off-Reservation landfills.

- b) To minimize impacts to off-Reservation landfills, Tribe will, to the extent feasible, separate and divert solid waste to reuse or recycling including at a minimum all wastes consisting of cardboard, mixed paper, glass, plastic, copper, aluminum, tin, white goods and green waste resulting from landscaping activities. The goal of this activity is to separate or divert 50% of the solid waste of the facility.
- c) During construction of the Casino Expansion Project, to the extent feasible, waste materials from construction activities shall be recycled or diverted for reuse. The goal of this activity is that 90% of inert wastes and 50% of non-inert wastes shall be recycled or diverted for reuse.

## **9. Security and Law Enforcement**

The Tribe and the Sheriff, respectively, shall provide security and law enforcement as set forth below.

- a) Security. The Tribe agrees to provide on-site security in the Casino Expansion Project during all hours of operations. The Tribe acknowledges that assistance from the County Sheriff may be required from time to time with respect to the apprehension and arrest of persons engaged in suspected criminal activity.
- b) Law Enforcement Responsibilities. County and Tribe agree that under Public Law 280 (18 U.S.C. § 1162), the County and the County Sheriff have concurrent jurisdiction with the Tribe over crimes committed on the Reservation.
- c) Compensation to County.
  - (1) Pursuant to an existing agreement between the Tribe and Sheriff, Tribe presently provides funding for two full-time deputy sheriff units.
  - (2) Tribe agrees to pay County \$200,000 annually to provide the funding for a deputy sheriff unit. After the first annual payment, subsequent annual payments shall be increased consistent with changes in the Consumer Price Index for All Urban Consumers in the San Diego, California area (CPI Index), but in no event shall the annual increase be greater than 5% each year. This requirement is considered satisfied if Tribe's payments under the existing Tribe/Sheriff Agreement referenced in the preceding subparagraph meet or exceed this amount. Should the existing agreement be terminated or should Tribe cease paying at least \$200,000 under the agreement referenced above, Tribe shall be obligated to pay the difference between \$200,000 and the amount being paid under the agreement referenced above, for Sheriff's services.

- d) County of San Diego District Attorney Tribal Liaison Project. The Tribe shall pay County annually for a portion of the cost of the District Attorney's Office – Tribal Liaison Project that consists of dedicated District Attorney Staff who work closely with Tribes in the San Diego region to prosecute Indian gaming-related crime. The first annual payment shall be \$6,000 and subsequent annual payments shall be increased by the CPI Index but in no event shall the annual increase be greater than 5% each year. These funds will be due for as long as the District Attorney's Office has dedicated staff working solely on Indian gaming related crimes.
- e) Criminal Prosecution Caseload. The Tribe shall pay County annually for costs of processing additional Criminal Prosecution Caseload. First annual payment shall be \$15,000 and subsequent annual payments shall be increased by the CPI Index but in no event shall the annual increase be greater than 5% each year.

## **10. Public Health and Safety**

- a) Fire and Life Safety Services: The Pala Fire Department is presently continuously staffed by professional firefighters with emergency medical training and paramedics. The department is equipped with two fire engines, a rescue unit, a water tender, a 110 foot ladder truck, and a brush engine. The Tribe has initiated construction of a new fire station with training facilities. The department currently provides fire protection and emergency medical services to the Reservation, Casino/Hotel/Spa, as well as the surrounding non-Reservation rural area including SR76 through to the I-15 and Pala Temecula Road to the Riverside County line, and will provide such services to the proposed Casino Expansion Project. The Fire Department has mutual aid agreements with nearby fire departments. The Tribe agrees to continue providing these services to its Reservation/Casino/Spa facilities, including the proposed Casino Expansion Project.
- b) Emergency Plan. Tribe shall coordinate with the County's emergency services programs to help assure public safety in the event of an emergency and will exchange emergency response policies and procedures, as needed and agreed upon by the Parties.
- c) Regional Light/Air Unit. Tribe will cooperate with County with regard to its north county regional emergency response light/air unit. Such cooperation shall include both operational issues as well as ideas as to how to pay for the equipment required by the unit. The unit is being developed to assist emergency response personnel entering large facilities such as the Casino Expansion Project by providing a pre-positioned vehicle with twenty mobile self-contained breathing apparatus and emergency lighting capability.

## **11. Impacts of Gambling Addiction**

- a) Compensation to County. Tribe shall pay County \$150,000 annually for programs designed to address gambling addiction. These funds shall be segregated by County and shall only be used for gambling addiction treatment programs. Beginning with the sixth annual payment, annual payments shall be increased commensurate with the annual change in the CPI Index but in no event shall the annual increase be greater than 5% each year.
- b) Tribe shall continue its existing Responsible Gaming programs within the existing casino and shall expand this program to include the Casino Expansion Project area. Existing programs consist of the following:
  - 1) Voluntary exclusion program
  - 2) Involuntary exclusion program
  - 3) In-casino responsible gaming signage
  - 4) Responsible gaming communications including brochures
  - 5) Training programs to educate staff on problem gaming including trained counselors
  - 6) Non-monetary support for the California Council on Problem Gambling which provides the following throughout California:
    - i. Conducts Responsible Gambling workshops for Casino employees
    - ii. Staffs a 24 hour/day, 7 days/week "Problem Gambling Help Line" with live professional counselors who can provide first contact crisis intervention
    - iii. Trains and certifies California Certified Gambling Counselors
    - iv. Provides information on cost accessible programs for those with compulsive gambling program
    - v. Maintains a "Speakers Bureau" of volunteers to help educate children and adults at schools and community service forums

## **B. DISPUTE RESOLUTION**

1. In an effort to foster good government-government relationships, and to assure that the Tribe is not unreasonably prevented from engaging in activities authorized under the Compact and benefiting therefrom, while assuring that the off-Reservation environment is not negatively impacted by the construction and operation of the existing casino and the Casino Expansion Project, the County and the Tribe agree to the following:

- a) The Tribe and the County shall make their best efforts to resolve disputes that occur under this Agreement by good faith negotiations whenever possible. Disputes between the Tribe and the County shall first be subjected to a process of

meeting and conferring in good faith in order to foster a spirit of cooperation and efficiency in the administration of the terms, provisions, and conditions of this Agreement as follows:

(i) Either party shall give the other, as soon as possible after the event giving rise to the concern, a written notice setting forth, with specificity, the issues to be resolved.

(ii) The parties shall meet and confer in a good faith attempt to resolve the dispute through negotiation not later than ten (10) days after receipt of the notice, unless both parties agree in writing to an extension of time. If the County asserts, and provides the Tribe with a reasonable basis for such assertion, that the Tribe's activities are causing an imminent danger to the public health and safety, the Tribe agrees to cease such activity until the County's concerns have been satisfied.

(iii) If the dispute is not resolved to the satisfaction of the parties within thirty (30) calendar days after the first meeting, then upon the request of either party in writing, the dispute shall be submitted to binding arbitration in accordance with this section. The Tribe and the County will submit to any arbitration proceeding as described in this section, and consent to the jurisdiction of the United States District Court for the Southern District of California and, if the United States District Court for the Southern District of California finds that it lacks jurisdiction, to the jurisdiction of the Superior Court for the County of San Diego, State of California, in each case for the purpose of compelling arbitration in the event either party refuses to arbitrate any arbitral dispute as contemplated herein, and for the enforcement of any decision and collection of any award of the arbitrator as contemplated herein. The disputes to be submitted to arbitration shall be limited to claims of breach or violation of this Agreement. The arbitrator shall reach decisions including providing the substance of outstanding and unresolved portions of such agreements to make possible their conclusion and resolutions of any disputes pursuant to this Agreement, within ninety (90) days of the disputes or issues being first submitted to him or her.

b) Arbitration Rules. Any dispute between the Tribe and the County arising out of or relating to this Agreement, or the breach thereof, shall be settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration shall be held on the Tribe's land or, if unreasonably inconvenient under the circumstances, at such other location mutually agreeable to the parties. Each side shall bear its own costs, attorneys' fees, and one-half the costs and expenses of the American Arbitration Association and the arbitrator, unless the arbitrator rules otherwise. In any court action brought pursuant to this Agreement, neither party shall be entitled to recover attorney fees and costs except as otherwise provided by law. The arbitration shall be administered by a single neutral arbitrator. 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. The decision of the arbitrator shall be in writing, give reasons for the decision, and shall be binding.

Any party to an arbitration in which an award has been made pursuant to this Agreement may petition any federal court, or in the event the federal court finds that it lacks jurisdiction, any state court of competent jurisdiction to confirm the award. The County and the Tribe expressly consent to be sued in such courts for the purposes of confirmation of such an award, and for enforcement of the terms of this Agreement.

An award shall be confirmed, provided that:

(i) The award is limited to the purposes of arbitration stated in this Agreement.

(ii) No monetary damages are awarded other than decisions requiring the payment of sums pursuant to obligations of the parties under this Agreement. (Awards may be made by the arbitrator for only such payments, for injunctive relief, for creation or enforcement of provisions of such agreements, and for declaratory relief, all in respect only to this Agreement).

(iii) If an award is confirmed, judgment shall be entered in conformity therewith. 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 civil action; and may be enforced like any other judgment of the court in which it is entered.

(iv) In no instance shall the Parties to this Agreement be entitled to consequential damages, punitive damages, or lost profits

- c) No Waiver or Preclusion of Other Means of Dispute Resolution. This Dispute Resolution Section may not be construed to waive, limit, or restrict any remedy that is otherwise available to either party, nor may this Section be construed to preclude, limit, or restrict the ability of the parties to pursue, by mutual agreement, any other method of dispute resolution, including, but not limited to, mediation or utilization of a technical advisor to the Tribal and State Gaming Agencies; provided that neither party is under any obligation to agree to such alternative method of dispute resolution.

## **C. CONSENT TO JURISDICTION: LIMITED EXPRESS WAIVER OF SOVEREIGN IMMUNITY**

1. The Tribe expressly and irrevocably waives its sovereign immunity specifically and exclusively to the County for the limited purposes set forth in Subsection B.

Additionally, the Tribe does hereby unconditionally waive any claim or defense of exhaustion of tribal administrative or judicial remedies. This waiver shall commence as of the date of execution of this Agreement.

2. The express waivers and consents provided for under this Section shall extend to civil actions authorized by this Agreement, including, but not limited to, actions to compel arbitration, any arbitration proceeding herein, any action to confirm or enforce any judgment or arbitration award as provided herein, and any appellate proceedings emanating from a matter in which an immunity waiver has been granted. Except as stated herein or elsewhere in this Agreement, no other waivers or consents to be sued, either express or implied, are granted by either party.

3. Notwithstanding any other provision of this Agreement, the Tribe's waiver of sovereign immunity shall not extend to any assets of the Tribe other than the revenue stream from the Facility.

4. The Tribe does not waive any aspect of its sovereign immunity with respect to actions by third parties. This waiver is granted only to the County and not to any other individual or entity.

#### **D. NOTICE**

a) All notices required by this Agreement will be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and Tribe at their respective addresses as follows:

For the Tribe:

Tribal Chairman  
Pala Band of Mission Indians  
35008 Pala Temecula Road  
PMB 50  
Pala, CA 92059

For the County:

John Snyder, Director  
Dept of Public Works  
5555 Overland Ave, Suite 2156  
San Diego, CA 92123

With a Copy To:

Howard Dickstein  
Dickstein & Zerbi  
1530 J Street, Suite 250  
Sacramento, CA 95814

With a Copy to:

Claudia Anzures  
Chief Deputy County Counsel  
1600 Pacific Highway, Suite 355  
San Diego, CA 92101

In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of

transmission of the notices and provided the following facsimile telephone numbers are used:

To Tribe: Pala Band of Mission Indians, Fax: 1-760-891-3584  
Howard Dickstein, Fax: 916-669-0350

To County: Chief Administrative Office, Fax: 619-531-5476  
County Counsel, Fax: 619-531-6005  
Public Works, Fax: 858-268-0461

Any party may change the address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

All notices will be effective upon receipt and will be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

## **E. MISCELLANEOUS PROVISIONS**

a. Term of Agreement. The term of this Agreement commences on the date of execution and runs concurrent with the term of the Compact.

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

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

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

e. Authorized Representatives. The persons executing this Agreement on behalf of the parties hereto affirmatively represent that each has the requisite legal authority to enter into this Agreement on behalf of their respective party and to bind their respective party to the terms and conditions of this Agreement. The persons executing this Agreement on behalf of their respective party understand that both parties are relying on these representations in entering into this Agreement.

f. Successors in Interest. The terms of this Agreement will be binding on all successors in interest of each party.

g. Severability. The provisions of this Agreement are severable, and the adjudicated invalidity of any provision or portion of this Agreement shall not in and of itself affect the validity of any other provision or portion of this Agreement, and the remaining provisions of the Agreement shall remain in full force and effect. If a court of competent jurisdiction were to determine that a provision of this Agreement is invalid or unenforceable, then the parties agree to promptly use good faith efforts to amend this Agreement to reflect the original intent of the parties in accordance with applicable law and consistent with the Compact between the Tribe and the State of California. If the parties are unable to reach agreement, the parties will resolve the dispute in accordance with the Dispute Resolution Section of this Agreement.

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

i. Force Majeure. In the event of a forced delay in performance by either the Tribe or the County due to causes beyond the reasonable control of that party, including but not limited to fire, floods, catastrophic weather events or other natural disasters, epidemics, embargoes, war, acts of war (whether or not war is declared), insurrections, riots, civil commotion, strikes, lockouts or other labor disturbances, acts of God, acts or inaction by the other party its employees or agents, unusual delay in transportation, unavailability of materials, the time for performance shall be extended for the period of the forced delay.

j. Acknowledgement. The County acknowledges and agrees that the matters addressed herein are the only issues required of the Tribe in connection with the Tribe's development of the Project and its obligations under the Compact.

k. Entire Agreement.

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

(2) In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement will 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 any party to this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the day and year above set forth.

**TRIBE:**

PALA BAND OF MISSION INDIANS,  
a federally recognized Indian Tribe

By:

\_\_\_\_\_  
Robert Smith, Chairman

**COUNTY:**

COUNTY OF SAN DIEGO  
a political subdivision of the State  
of California

By:

\_\_\_\_\_  
Clerk of the Board of Supervisors

**PROPOSAL TO PROVIDE HIRT SERVICES  
TO THE PALA BAND OF MISSION INDIANS**

The Unified San Diego County Emergency Services Organization proposes to provide Hazardous Materials Emergency Response Services to the Pala Indian Reservation. This response would be on an as needed basis and be available on a twenty-four (24) hour/seven (7) day a week basis. The Hazardous Materials Incident Response Team (HIRT) will provide the actual response when requested. Provider response standards will be in accordance with Section 100.0 "HIRT Provider Response Standards" of the HIRT Policy and Procedures Manual. Section 100.0 is attached herein.

The Pala Fire Department will function as the Incident Commander (IC) for all hazardous materials responses on the Pala Reservation. The HIRT will not act as the Incident Commander for any reason. Other responsibilities of the responsible Fire Department include the safeguarding of personnel at the scene by restricting access to the scene, initiating containment (if it can be done safely) and isolating persons and materials until the arrival of HIRT. To ensure the most effective and safest possible response, all first responder personnel should be trained to First Responder Operational (FRO) standards.

HIRT will normally be requested through the San Diego Fire-Rescue Department's dispatch center.

Generally, the HIRT response will consist of one hazardous materials vehicle and four trained Hazmat Specialists from the San Diego Fire-Rescue Department (SDFD), as well as two hazardous materials specialists and one response vehicle from the San Diego County Department of Environmental Health Services, Hazardous Materials Division (HMD). The level of response may increase or decrease depending upon the severity of the incident.

The Pala Fire Department will be a non-voting member of the HIRT Policy Committee and a voting member of the HIRT Operations Committee. Any training offered by the HIRT program would be made available to them at no additional cost.

Accepted By

Accepted By

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Pala Band of Mission Indians

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Thomas Amabile  
HIRT Administrator

## POLICY AND PROCEDURES MANUAL

**UNIFIED SAN DIEGO COUNTY  
HAZMAT INCIDENT  
RESPONSE  
TEAM (HIRT)**

**SUBJECT:  
HIRT PROVIDER RESPONSE  
STANDARDS**

SECTION 100.0

ADOPTED: 8/17/93

REVISED:

### HIRT RESPONSE STANDARDS

#### I. TRAINING STANDARDS

All HIRT providers will:

- A. Be trained to NFPA standards.
- B. Meet all operational requirements of CCR Title 8 Section 5192 and 29 CFR 1910.120.
- C. Be trained to perform entry in both level A and level B protective equipment.

#### II. OPERATING STANDARDS

##### A. Mitigation/Control Capabilities

The HIRT Provider responsible for mitigation/control actions will be able to:

- 1. Respond to reported incidents and advise the Incident Commander (IC) on additional local, State, Federal and private resources required to manage and/or mitigate the problem.
- 2. Perform technical response procedures in accordance with established standard operating procedures (SOPs), personal protection guidelines and all applicable State regulations.
- 3. Request use of the State of California Emergency reserve Account (ERA) for emergency cleanup.
- 4. Provide technical expertise, assistance and equipment at the incident.

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5. Perform duties as directed by the IC.
6. Act as the IC's agent in the management of cleanup operations.

**B. Public Health and Safety Capabilities**

The HIRT Provider responsible for Public health and Safety issues will be able to:

1. Identify, or assist in the identification of, unknown spilled material at the scene.
2. Act as technical advisor on characteristics and direct health and environmental effects of the hazardous materials at the scene.
3. Assist the IC in determining the necessity for evacuation and establishing reentry criteria.
4. Sample contaminated soil, water or air to determine the extent of contamination and identify any public health concerns.
5. Provide analytical laboratory support as needed.
6. Assist the IC in identifying potential sources of hazardous materials release.
7. Provide information on proper protective actions at the scene.
8. Recommend cleanup levels and advise on the adequacy of cleanup both during and after the emergency.
9. Assist the IC in obtaining financial and other resources necessary for any required cleanup.

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10. Assist the agency having jurisdiction in obtaining appropriate enforcement action against any responsible party.
11. Provide on-scene liaison with Poison Control, Emergency Medical Services (EMS) and State and Federal agencies.

**C. Capabilities Required of All Providers**

All HIRT Providers will be able to perform the following functions:

1. Understand what hazardous materials are, the risks associated with them at an incident, and the potential outcomes associated with a hazmat emergency.
2. Recognize the presence of hazardous materials in an emergency situation.
3. Identify hazardous materials.
4. Understand the role of the individual trained to the first responder awareness level as well as the role of the DOT Emergency Response Guidebook.
5. Recognize the need for additional resources and advise the IC to make the appropriate notifications.
6. Basic hazard and risk assessment.
7. Select and use proper specialized chemical protective equipment.
8. Understand basic hazmat terms.
9. Basic and advanced control, containment and/or confinement operations within the capabilities of the resources and PPE

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available within the unit.

10. Understand and implement decontamination procedures.
11. Understand the relevant SOPs and termination procedures.
12. Implement an employers (business) emergency response plan.
13. Classify, identify and verify known and unknown materials using field survey instruments and equipment.
14. Function within an assigned role in the Incident Command System.
15. Understand basic chemical and toxicological terminology and behavior.
16. Understand hazmat medical management protocols as established by the California Emergency Medical Services Authority (EMSA).
17. Rescue/Evacuation.
18. Isolation/Deny entry.
19. Contain/Control.
20. Exposure protection.
21. Communicate with the IC, first responder agencies, dispatch centers and State and Federal regulatory agencies.

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SECTION 100.0

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REVISED:

**III. BACKUP TEAMS**

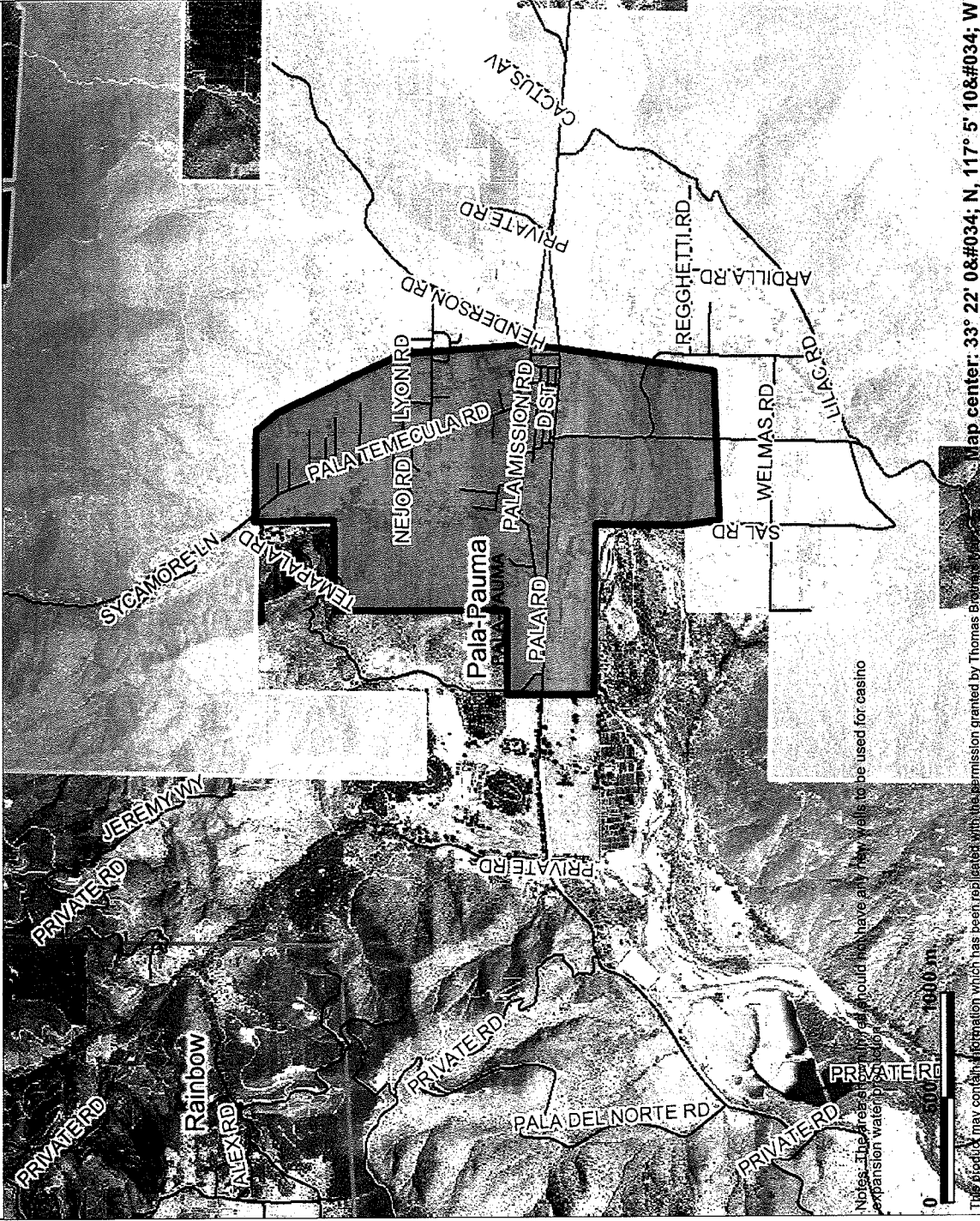
A backup team must be provided as a rescue team for the personnel working in the hot zone. The backup team shall:

- A. Be protected at the same level of protection as the team working in the hot zone.
- B. Maintain line of sight contact among personnel operating in the hot zone.
- C. Visually monitor personnel operating within the hot zone.

**IV. RESPONSE TIMES**

- A. Each HIRT provider will meet a maximum response time of sixty minutes for ninety percent of all hazardous materials incidents dispatched.
- B. A second, simultaneous, response will require a maximum response time of ninety minutes.
- C. Response time begins at the time of dispatch and ends when the unit arrives on scene.

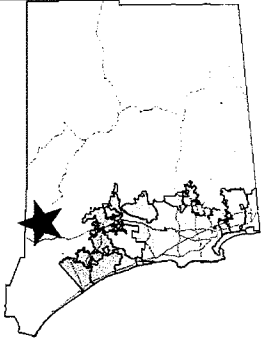
# Area of No New Wells for Casino Expansion



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Notes: The Area of No New Wells should not have any new wells to be used for casino expansion water production.

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## Legend

- Highways
- Freeways
- Streets
- Water Bodies
- Indian Reservations
- Sponsor Groups
- Sponsor Groups
- Other
- Community Planning Area
- Community Planning Areas
- 2005 Orthophoto South West
- 2005 Orthophoto South East
- 2005 Orthophoto North West
- 2005 Orthophoto North East

Scale: 1:29,103

