

ATTACHMENT B

Sec. Limited Waiver of Sovereign Immunity.

- a) For the purpose of actions based on disputes between the County and the Tribe that arise under or are related to this Agreement or operations performed under this Agreement and the enforcement of any judgment or award resulting therefrom, the Tribe expressly and irrevocably waives for the term of this Agreement its right to assert its sovereign immunity from suit and enforcement and execution of any ensuing judgment or award and consents to be sued in the federal courts of the United States or the state courts of the State of California provided that (i) the dispute is limited solely to issues arising under this Agreement, (ii) any claim for monetary damages required by the terms of this Agreement may be sought, and solely injunctive relief, specific performance (including enforcement of a provision of this Agreement expressly requiring the payment of money to one or another of the parties), and declaratory relief (limited to a determination of the respective obligations of the parties under the Agreement) may be sought, and (iii) in addition to the No Third Party Beneficiaries provision in Section of the Agreement, nothing herein shall be construed to constitute a waiver of the sovereign immunity of the Tribe with respect to any third party. Any action brought pursuant to this Agreement shall be governed by California law. The waivers and consents to jurisdiction expressly provided for under this section shall extend to all civil actions authorized by this Agreement, including, but not limited to, actions to compel any proceeding herein any action to enforce or execute on any judgment rendered in any such proceedings, and any appellate proceeding emanating from any such proceedings. The Tribe also does hereby unconditionally waive any claim or defense of exhaustion of tribal administrative or judicial remedies.
- b) Prior to the effective date of this Agreement, the Tribe shall adopt, and at all times hereinafter shall maintain in continuous force, an ordinance or resolution, in accordance with tribal law, that expressly waives its sovereign immunity as stated in section (a) above and authorizes the Tribal Chairman, or other tribal member or entity authorized by tribal law to waive

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- sovereign immunity, to sign a waiver of sovereign immunity, which waiver shall be irrevocable and binding on the Tribe for the term of this Agreement.
- c) This limited waiver only applies to the Tribe itself. No action, claim or proceeding may be brought against any member, officer, elected official, director, employee or agent (including any attorney) of the Tribe to enforce this Agreement.
- d) By entering into this Agreement, the County acknowledges and agrees that the Government Claims Act (the "Act"), including Government Code section 814, applies to the County. As to this Agreement, the Tribe may bring a breach of contract action for money or damages or an action seeking only non-monetary relief against the County in a court of competent jurisdiction. However, the term County does not include individual County officials or employees. No action, claim or proceeding may be brought against any member of the Board of Supervisors or County public official, elected official, appointed official or employee, employee or agent to enforce this Agreement. The Tribe agrees to comply with all pre-suit claim requirements set forth in the Act, Government Code Sections 905 through 951, and Santa Barbara County Code, Chapter 2, Article XVIII, section 2-116. The County acknowledges and agrees that the Tribe is not required to present a claim before commencing an action that seeks no money or damages.

Section **NO THIRD PARTY BENEFICIARIES**. No provisions of this Agreement or any waiver of sovereign immunity contained herein shall provide or create any third-party beneficiary rights or any other rights of any kind in any Person other than County and Tribe, and, all provisions of the Agreement will be personal and solely between the County and the Tribe.

Nothing in this Agreement, whether express or implied, shall be construed to give any Person, other than the parties hereto, any legal or equitable right, remedy, claim or benefit under or in respect of this Agreement, or any provision contained within such Agreement or any right to purport to enforce any provision hereof or to claim any right hereunder.

In addition, this limited waiver by the Tribe shall not constitute a waiver of tribal sovereign immunity that may be available to, or asserted by, any member of the

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Tribe, officer of the Tribe, elected official of the Tribe, director of the Tribe, employee or agent (including any attorney) of the Tribe.

Without limiting the generality of the foregoing, any waiver of sovereign immunity by the Tribe shall **NOT** apply to any claim by any Person, other than the County and Tribe, regardless of what form such claim takes, whether by complaint, intervention, joinder or any other method by which such claim is asserted.

Solely for the purpose of this section, "Person" shall include any individual person and any governmental entity or legal entity, including, without limitation, corporations, limited liability companies, partnerships or associations or any other entity of any kind or type.