



Agenda Date: 2/7/2006  
Agenda Placement: 6T

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Britt Ferguson for Nancy Watt - County Executive Officer  
County Executive Office  
**REPORT BY:** Andrew Carey, Management Analyst, 253-4477  
**SUBJECT:** Amendment No. 1 to Agreement No. 6393, Northern California Counties Tribal Matters Consortium

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### **RECOMMENDATION**

County Executive Officer requests approval of and authorization for the Chair to sign Amendment No. 1 to Agreement No. 6393 with Solano and Sonoma Counties, which created the Northern California Counties Tribal Matters Consortium, amending the agreement to remove any references to Yolo County.

### **EXECUTIVE SUMMARY**

Recognizing the potential for regional impacts associated with Indian gaming and other tribal developments, the Boards of Supervisors of Sonoma, Napa, and Solano Counties, at their joint meeting in March 2004, directed staff to investigate ways of working collaboratively to address these issues. Staff were directed to include Yolo County in their deliberations. These discussions ultimately resulted in a proposal to create a four-county Tribal Matters Consortium with the objective of developing a common strategy to address the significant challenges local governments now face due to the explosive growth of tribal gaming and land development in Northern California.

After months of discussions between representatives of the four counties, on January 25, 2005, the Boards of Supervisors of Napa, Solano, and Sonoma Counties, approved Agreement No. 6393, a multi-county agreement to form the Northern California Counties Tribal Matters Consortium (Consortium). However, although representatives from Yolo County had participated in the discussions leading to the creation of the Consortium, the Yolo County Board of Supervisors elected not to join the Consortium on January 25, 2005 and also declined subsequent offers to join the Consortium. Nonetheless, with the expectation that the Yolo County Board of Supervisors would approve the multi-county agreement, the original agreement included Yolo County as a founding member of the Consortium.

Approval of the recommended action will make a technical correction to the agreement by removing mention of Yolo County as a member of the Consortium. No other changes to the agreement are required.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

Recognizing the potential for regional impacts associated with Indian gaming and other tribal developments, the Boards of Supervisors of Sonoma, Napa, and Solano Counties, at their joint meeting in March 2004, directed staff to investigate ways of working collaboratively to address these issues. Staff were directed to include Yolo County in their deliberations.

Subsequently, the Boards of Supervisors for Napa, Solano, Sonoma, and Yolo Counties separately authorized the creation of an ad hoc working group composed of one board member and one alternate board member and support staff from each county to consider developing a multi-county agreement for joint cooperation on tribal matters. In addition, the working group was tasked with developing a scope of work and soliciting the services of a consultant for the purpose of assisting the group to identify common issues and opportunities for joint advocacy. To accomplish this task, the four counties entered into cooperative agreement under each county's County Executive Officer/County Administrator's contracting authority, with each county agreeing to contribute \$5,000 for the purpose of retaining a tribal matters consultant. Sonoma County agreed to serve as the lead agency in this endeavor and was authorized to retain a tribal matters consultant on behalf of the other agencies pursuant to Sonoma County's procurement policies and procedures.

The ad hoc working group selected and engaged the firm of Perkins-Coie to assist with the development of joint principles and general implementation guidance. The working group drafted a multi-county agreement establishing a Consortium of the four counties for the purpose of addressing regional tribal matters. The agreement included procedures to allow other counties to join the Consortium in the future.

On January 25, 2005, the Boards of Supervisors from Napa, Solano, and Sonoma, approved Agreement No. 6393, a multi-county agreement forming the Northern California Counties Tribal Matters Consortium (Consortium). The agreement defines the Consortium's goals and identifies basic principles and guidelines for Consortium engagement with tribal entities. The agreement authorized the creation of a Steering Committee, composed of one supervisor (and one alternate supervisor) from each participating county, to carry out the Consortium's business with the responsibility to bring matters back to the respective member Boards of Supervisors when dealing with modifications to the agreement and budget approval. The Steering Committee is subject to the requirements of the Ralph M. Brown Act, and its meetings, deliberations, and actions are open to the public. Supervisor Brad Wagenknecht represents Napa County on the Steering Committee. A subcommittee Working Group consisting of two staff members from each county (County Executive/Administrator Office and County Counsel) provide staff support to the Steering Committee. The Consortium's budget for Fiscal Year 2005-2006 is \$30,000, with each member county contributing \$10,000.

Although representatives from Yolo County had participated in the discussions leading to the creation of the Consortium, the Yolo County Board of Supervisors elected not to join the Consortium on January 25, 2005 and also declined subsequent offers to join the Consortium. Nonetheless, with the expectation that the Yolo County

Board of Supervisors would approve the multi-county agreement, the original agreement included Yolo County as a founding member of the Consortium.

The agreement was structured such a way that approval by any three of the original four counties' Boards of Supervisors was sufficient for creating the Consortium. Therefore, there was no immediate need to delete references to Yolo County from the agreement. Additionally, the Steering Committee decided to delay taking action to amend the agreement with the hope that the Yolo County Board of Supervisors might ultimately decide to join the Consortium. However, Yolo County does not wish to join the Consortium at this time and the steering Committee has directed staff to return to their respective boards to amend the agreement to delete references to Yolo County from the agreement. Approval of the recommended action will make a technical correction to the agreement by removing mention of Yolo County as a member of the Consortium. All the other terms and conditions of the agreement remain unchanged and there is no fiscal impact related to this action.

The Boards of Supervisors of Napa, Solano, and Sonoma Counties are scheduled to consider Amendment No. 1 to Agreement No. 6393 on February 7, 2006, and the amendment will become effective upon approval by all three boards.

#### MULTI-COUNTY AGREEMENT - BACKGROUND INFORMATION

The multi-county agreement established a group named the Northern California Counties Tribal Matters Consortium for the purpose of informing member counties of federal Indian law and policy so that they can effectively exercise their authority to respond to emerging policy and tribal development proposals. The Consortium's goal is to identify common principles that will guide the actions of each county and enable them to influence legislative and administrative policies in order to avoid or reduce as much as possible any potentially negative impacts related to tribal development proposals.

The agreement incorporates a statement of general policy principles that are consistent with prior Napa County Board of Supervisor resolutions and directions with regard to tribal matters, as well as principles and policy language adopted by both the California State Association of Counties and the National Association of Counties on these issues. These general principles are intended to provide a proactive foundation for county action regarding trust land proposals, to give advance notice of county policies and standards to those who intend to propose tribal development on such land, and to advise federal and state decision makers of the member counties' positions on tribal matters.

Through the agreement, consultant services may be secured in order to monitor legislation and advocate the consortium's interests or to assess the regional environmental impact of specific land-use development proposals. Sonoma County is designated the lead agency for the Consortium with specified administrative and fiduciary tasks whose costs are funded by 1% of all revenues received by the consortium. Membership does not bind any county to adopt any policy unless adopted by that county's Board of Supervisors, nor does the agreement control relationships between any county and any individual tribe. New member counties must be approved by the Steering Committee and must adopt the agreement. Members may withdraw by adoption of a resolution and with 30 days written notice.

#### CONSORTIUM PRINCIPLES

The principles draw a distinction between tribal trust land acquisitions and other development proposals sought by tribes without significant, long-term, and documented ties to the specific proposed location in the county as compared to those sought by tribes with such ties. The policy presumption is that proposals will be opposed until the county in question is satisfied that such ties exist.

Where the county in question is satisfied that a tribe or an unrecognized group seeking federal acknowledgment as a tribal entity has significant ties to a specific location, Consortium member counties:

- | Will work with the tribe on a government-to-government basis to consider development proposals within the policy framework of the Consortium;
- | Will consider proposals to have land placed into trust for any development purpose in accordance with applicable legal authority on tribal purpose, need, and other factors, and to ensure consistency with county ordinances, zoning, environmental standards, health and safety standards, and other applicable development rules and standards;
- | Will disfavor gaming-related proposals until it is conclusively shown that the development is fully consistent with Consortium principles and is in the best interest of the county;
- | Will reserve the right to participate actively in any tribal acknowledgment proceeding based on the merits of the petition;
- | Will oppose federal acknowledgment proposals by groups seeking federal recognition outside the Bureau of Indian Affairs administrative process (by legislation, for example) in the absence of approval of the county or an existing county-tribal agreement;
- | Will require that any county-tribal agreement will fully mitigate environmental impacts of the proposed project and that there will be guarantees of substantial compliance with county ordinances, zoning and environmental policies through a Memorandum of Understanding or similar agreement, in which the tribe must provide a sufficient waiver of tribal sovereign immunity to permit enforcement of the agreement; and
- | Will oppose the Congressional designation of trust land or the authorization of trust land selections in the absence of approval of the county or the existence of a county-tribal agreement.

### **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Maiko Klieman