

**MEMORANDUM OF AGREEMENT BETWEEN A COALITION OF FEDERALLY
RECOGNIZED INDIAN TRIBES, AND COUNTY OF LAKE, CALIFORNIA**

This Memorandum of Agreement (“MOA”) is made this 21st day of December, 2015, by and between the County of Lake, a political subdivision of the State of California (the “County”), and several federally recognized Indian tribes that are signatories to this MOA (collectively referred to as the “Tribes” and individually referred to generally as a “Tribe”). The County and the Tribes may be referred to herein individually as “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the leaders of the Tribes, all with archaeological and cultural resource interests in the County, take notice and plan to meet and coordinate efforts to ensure that the Tribes’ cultural resources are afforded proper protection by the County and its related departments in accordance with all applicable laws and policies, including, but not limited to, the California Environmental Quality Act (“CEQA”), Senate Bill 18 (“SB 18”), and Assembly Bill 52 (“AB 52”); and

WHEREAS, at a April 1, 2014 meeting, it was decided to form a coalition, referred to as Ancestors 1, of several federally recognized Indian Tribes with an open invitation for all of the tribes with archaeological and cultural resource interests in the County to participate in an ongoing effort to deal with this matter; and

WHEREAS, the County and the Tribes are committed to working together on a government-to-government basis on issues of mutual interest and concern; and

WHEREAS, the County and the Tribes recognize the contributions that each make to a broad cultural, economic, and historical heritage in Northern California; and

WHEREAS, the County and the Tribes understand that improved communication and collaboration will promote the shared goals of establishing a regional community, respecting different cultures, linking people to their heritage, fostering a sense of place, deepening community pride, and encouraging civility; and

WHEREAS, SB 18 was enacted on September 29, 2004 and established a planning level process which required the County to consult with a Tribe prior to approving or amending its general plan or specific plan documents or prior to the designation of land as open space containing cultural places; and

WHEREAS, AB 52 was signed into law on September 25, 2014 and sets forth a process and scope that clarifies California tribal government involvement in the consultation process contemplated by CEQA, including specific requirements and timing for lead agencies to consult with tribes on avoiding or mitigating impacts to tribal cultural resources; and

WHEREAS, AB 52 requires that a lead agency begin consultation with a California Indian tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if

the tribe requests to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and if the tribe requests consultation, prior to determining whether a “negative declaration,” “mitigated negative declaration,” or “environmental impact report,” as those terms are used in CEQA, is required for a project; and

WHEREAS, AB 52 establishes a new category of resources under CEQA called “tribal cultural resources” which includes, but is not limited to, archaeological sites, traditional cultural properties, funerary objects, human remains, and burial and ceremonial sites, and considers tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation; and

WHEREAS, AB 52 was also intended to preserve the lead agency’s ability to approve a development project after consultation with the appropriate tribes is fulfilled; and

WHEREAS, the County and the Tribes seek to enter into a cooperative agreement to implement certain aspects of CEQA, SB 18 and AB 52 to ensure the protection of the Tribes’ cultural resources within the County; and

WHEREAS, the County recognizes and agrees to accommodate the Tribes’ need to protect its cultural resources, including protecting the confidentiality of the location of those resources, and exempting that information from public disclosure as permitted under applicable law; and

WHEREAS, the County and the Tribes will consult with one another, and work in a cooperative manner, to protect, preserve, enhance, mitigate, and manage the Tribes’ cultural resources identified within the jurisdiction of the County, whether those resources are located on public or private lands; and

WHEREAS, the term “consult” means the meaningful and timely process to notify, discuss, and carefully consider the views of each party in a manner that is respectful of each other’s cultural values and, where feasible, to seek agreement.

FOR THE FOREGOING REASONS, THE COUNTY AND THE TRIBES AGREE AS FOLLOWS:

1. Each of the undersigned Tribes resolves to make formal written requests to various County agencies to be informed of proposed projects in geographic areas within the County. In addition, each Tribe, which requests consultation with various County agencies, further requests that such agencies inform the appropriate Tribe(s) prior to determining whether a “negative declaration,” “mitigated negative declaration,” or “environmental impact report,” as those terms are used in CEQA, is required for a project.
2. The County and the Tribes shall establish the following procedure for consultation, which will provide an efficient process for consultation with all parties committed to open, candid, respectful, timely, and effective communication:

The lead agency will inform the appropriate Tribe(s) of proposed projects in geographic areas within the County. The County's current communication system whereby it notifies the Tribes using electronic correspondence to a distribution list of Tribal representatives is an efficient and effective form of communication.

The lead agency shall engage in early, inclusive, and frequent communication with Tribal leaders regarding issues pertaining to or impacting Tribes pursuant to this MOA.

3. The County and the Tribes will mutually agree upon a list of those consultants and professionals who the County will recommend to conduct archaeological, historical, and cultural activities that affect the implementation of this MOA. The County and Tribes will make every effort to agree to a list of consultants and professionals and the County will encourage applicants to utilize a consultant from that list.

4. The County will work with California Native American Tribes as identified by the Native American Heritage Commission, pursuant to Government Code Section 65352.3. When locations of the Tribes cultural resources are identified, the County will work with the Tribes and the Native American Heritage Commission to maintain the confidentiality of this information subject to applicable laws.

When a matter involves confidential or culturally sensitive information, the lead agency, and the County if necessary, will work with the appropriate Tribal representative(s) to address the sensitivity of the information to the fullest extent legally possible.

5. The County and the Tribes will work in good faith to develop and implement a cultural resources management plan, subject to funding availability, which may include a cultural resource and historic preservation component within the General Plan, an update to the County's Best Management Practices, as well as set forth appropriate standard operating procedures, whose purposes are to specify actions to be taken to protect, preserve, enhance, mitigate, and manage, or dispose of, traditional cultural properties and resources identified or impacted within the County.

6. The County shall endeavor to: (a) provide the necessary resources for the investigation, evaluation, monitoring, mitigation, and ongoing protection of cultural resources; (b) support the enforcement of existing laws protecting those resources; and, (c) provide the necessary resources for the return to the Tribe or repatriation by the Tribe of appropriate resources through its budgetary, development, and capital improvement processes.

7. The County and the Tribes agree to work together to attempt to find appropriate ways to avoid impacts on important cultural resources including, but not limited to, seeking Historic Preservation District and Historic Preservation Site designations as set forth in the County's Zoning Ordinance, Article 38. The County pledges to always look for ways to avoid impacts on these resources as the first option, as provided for in CEQA Section 21083.2 (b). When avoidance of impact is impossible or impractical given other concerns of equal importance,

including consideration of private property rights, the County will work with the Tribes for appropriate and respectful resolution of any unavoidable impacts.

8. This MOA does not alter the rights and obligations of the Parties to comply with applicable federal and state laws.

NOW THEREFORE, BE IT RESOLVED, by the signatures of the representatives on the date indicated below, that the County and the Tribes formally endorse and accept this Memorandum of Agreement.

LAKE COUNTY

By: _____

Date: 12/11/15

[TRIBE] *Habematchel Pomo
of upper Lake*

By: _____

Date: 12.21.15

[TRIBE]

By: _____

Date: _____

[TRIBE]

By: _____

Date: _____

[TRIBE]

By: _____

Date: _____

[TRIBE]

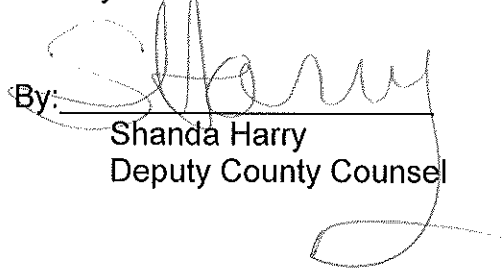
By: _____

Date: _____

ATTEST: MATT PERRY
Clerk of the Board

By: _____

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: 
Shanda Harry
Deputy County Counsel