

RESOLUTION NO. 2013-140

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING EXECUTION OF A DEDICATION OF PUBLIC IMPROVEMENTS AGREEMENT WITH THE FEDERATED INDIANS OF GRATON RANCHERIA AND APPROVING A CERTIFICATE OF ACCEPTANCE

WHEREAS, Resolution 2012-78 passed by the City Council on June 12, 2012, approved a Joint Exercise of Powers Agreement (JEPA) by and between the City of Rohnert Park and the Federated Indians of Graton Rancheria for wastewater services;

WHEREAS, the aforementioned JEPA requires that the Tribe provide for, develop, and construct wastewater infrastructure within the City limits, including a new wastewater force main line to serve the Graton Rancheria Casino project;

WHEREAS; under the JEPA the Tribe must: (1) provide written certification from the engineer and architect of record that the wastewater force main has been constructed in accordance with the Regulations, (2) allow inspection of the development plans, work done and materials furnished for the wastewater force main, (3) receive approval by the City that the sewer force main conforms with the Regulations, and (4) irrevocably offer to dedicate these facilities to the City;

WHEREAS, the Parties clarified the scope and order of work required by the JEPA in the Wastewater JEPA Implementation Agreement dated August 1, 2013;

WHEREAS, the Tribe has provided written certification from its engineer, the City has inspected the work and approved it, and the Tribe has made an Irrevocable Offer of Dedication for the wastewater force main infrastructure within the City limits in the form of a Dedication of Public Improvements Agreement ("Dedication");

WHEREAS, the JEPA requires that the City Manager bring a Resolution accepting Tribe's Dedication before the City Council for approval; and

WHEREAS, the City desires to accept the Tribe's Dedication, subject to the Tribe's compliance with the terms of the JEPA;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby resolve, determine, find and order as follow:

Section 1. Incorporation of Recitals. The recitals to this Resolution are true and correct and material to this Resolution.

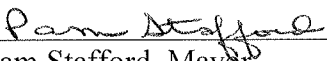
Section 2. Execution of Agreement. The City Council of the City of Rohnert Park hereby authorizes and directs the Mayor to execute the attached Dedication, in substantially similar form

as provided for in Attachment A hereto subject to minor modification by the City Attorney, which is incorporated by this reference, from Federated Indians of Graton Rancheria.

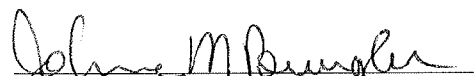
Section 3. Certificate of Acceptance. The City Council of the City of Rohnert Park hereby accepts the wastewater force main granted by the Dedication and authorizes and directs the City Manager to execute a Certificate of Acceptance, for and on behalf of the City of Rohnert Park, in substantially similar form as provided for in Attachment B, which is incorporated by this reference.

DULY AND REGULARLY ADOPTED by the City Council of the City of Rohnert Park this 8th day of October 2013.

CITY OF ROHNERT PARK


Pam Stafford, Mayor

ATTEST:


JoAnne Buergler, City Clerk

Attachments:

- A) Dedication of Public Improvements Agreement with Attachments
- B) Certificate of Acceptance

AHANOTU: AYE BELFORTE: AYE MACKENZIE: AYE CALLINAN: ABSENT STAFFORD: AYE
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)

OFFICIAL BUSINESS.
Document entitled to free
recording per Government
Code § 6103 and § 27383

Attachment A

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

CITY OF ROHNERT PARK
c/o City Clerk
130 Avram Avenue
Rohnert Park, CA 94928

SPACE ABOVE THIS LINE FOR RECORDING USE

DEDICATION OF PUBLIC IMPROVEMENTS AGREEMENT

This Dedication of Public Improvements Agreement ("Dedication Agreement") is made this _____ day of _____, 2013 by and among THE FEDERATED INDIANS OF GRATON RANCHERIA, a federally recognized Indian tribe ("Grantor"), and THE CITY OF ROHNERT PARK, a California municipal corporation ("City" or "Grantee").

RECITALS

This Dedication Agreement is made with reference to the following facts and objectives:

A. On June 22, 2012, the Parties entered into that certain Joint Exercise of Powers Agreement by and between City of Rohnert Park and Federated Indians of Graton Rancheria for Wastewater Services, which set forth Grantor's obligations with respect to the development and construction of certain Dedicated Facilities, and with respect to the dedication of the Dedicated Facilities to Grantee (capitalized terms that are not defined herein are as defined in the aforementioned Joint Exercise of Powers Agreement).

B. The Dedicated Facilities consist of an 8" Wastewater Force Main and ancillary improvements, as more particularly described and depicted in Exhibit A attached hereto.

C. The Parties hereby acknowledge that Grantor has completed satisfactorily all conditions precedent to Grantee's acceptance of the Dedicated Facilities as provided in the Agreement.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Grant of Dedicated Facilities. Grantor hereby grants to Grantee those certain Dedicated Facilities located in the City of Rohnert Park, County of Sonoma, California, as more

particularly described and depicted in Exhibit A, attached hereto and incorporated herein by this reference.

2. **Time And Manner Of Acceptance.**

2.1 The Dedicated Facilities may be accepted by Resolution of the City Council of the City of Rohnert Park.

2.2 This Dedication Agreement shall remain in effect until accepted by Resolution of the City Council. This Dedication Agreement may not be terminated, or the right to accept the Dedication Agreement abandoned, except by Resolution of the City Council.

2.3 Upon acceptance of the Dedicated Facilities, the City shall mail, by U.S. certified postal, a copy of its Resolution of Acceptance to the Grantor.

3. **Notices.** Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service; (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery; or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:

City of Rohnert Park
130 Avram Avenue
Rohnert Park, California 94928
Attention: ~~Director of Public Works~~ *City Manager*

To Grantor:

Federated Indians of Graton Rancheria
6400 Redwood Drive, Suite 300
Rohnert Park, California 94928

4. **Waiver of Compensation.** Grantor hereby expressly and unconditionally waives any and all right to claim, demand, or receive any further compensation for the Dedication which Grantor may be eligible to receive under the California Relocation Assistance Act (Government Code §7260, et seq.), the article 1, § 19 of the California Constitution, the California Eminent Domain Law (Code of Civil Procedure §1230.010, et seq.), and/or the California Code of Regulations, Title 25 or other applicable local, state, or federal statute, ordinance, regulation, rule, or decisional law (collectively "Compensatory Laws"), including, but not limited to, the fair market value of the property, severance damages, loss of goodwill, loss of profits, or relocation benefits and assistance, or claims for unreasonable precondemnation activities or inverse condemnation, or any other compensation as a result of the City's requirement of the Dedication and/or acceptance of the Dedication. Furthermore, Grantor hereby expressly releases the City of Rohnert Park, and their respective officials, officers, employees, representatives, successors and assigns, from any liability, responsibility, or obligation to pay any further compensation for the

City's requirement of the Dedication and/or acceptance of the Dedication which Grantor may be eligible to receive under the Compensatory Laws as a result thereof.

5. **Authority To Execute.** The person or persons executing this Dedication Agreement on behalf of Grantor warrants and represents that he/she/they has/have the authority to execute this Dedication Agreement on behalf of the tribe and warrants and represents that he/she/they has/have the authority to bind Grantor to the performance of its obligations hereunder.

6. **Counterparts.** This Dedication Agreement may be executed in one or more counterparts, each of which shall, for all purposes, be deemed an original and all such counterparts, taken together, shall constitute one and the same instrument.

7. **Recitals; Exhibits.** The Recitals above and Exhibits attached hereto are incorporated herein by reference.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first written above.

GRANTOR: Federated Indians of Graton
Rancheria

By: 

Name: _____

Title: Greg Sarris

Tribal Chairman
(Proper Notarization of signature is required
and shall be attached)

CONSENT BY: City of Rohnert Park

By: _____

Name: Gabe Gonzalez Pam Stafford

Title: City Manager Mayor

(Proper Notarization of signature is
required and shall be attached)

GRANTOR:

By: _____

Name: _____

Title: _____

(Proper Notarization of signature is required
and shall be attached)

ATTEST:

JoAnne Buergler, City Clerk

STATE OF CALIFORNIA

COUNTY OF Sonoma

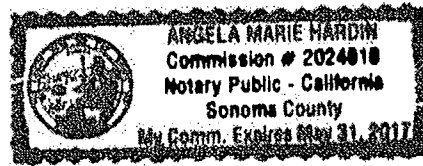
)
) ss.
)

On July 1, 2013 before me, Angela Marie Hardin, Notary Public, personally appeared Greg Sarris, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Angela Marie Hardin
Signature of Notary Public



(Seal)

STATE OF CALIFORNIA

COUNTY OF _____

)
) ss.
)

On _____, 2013 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

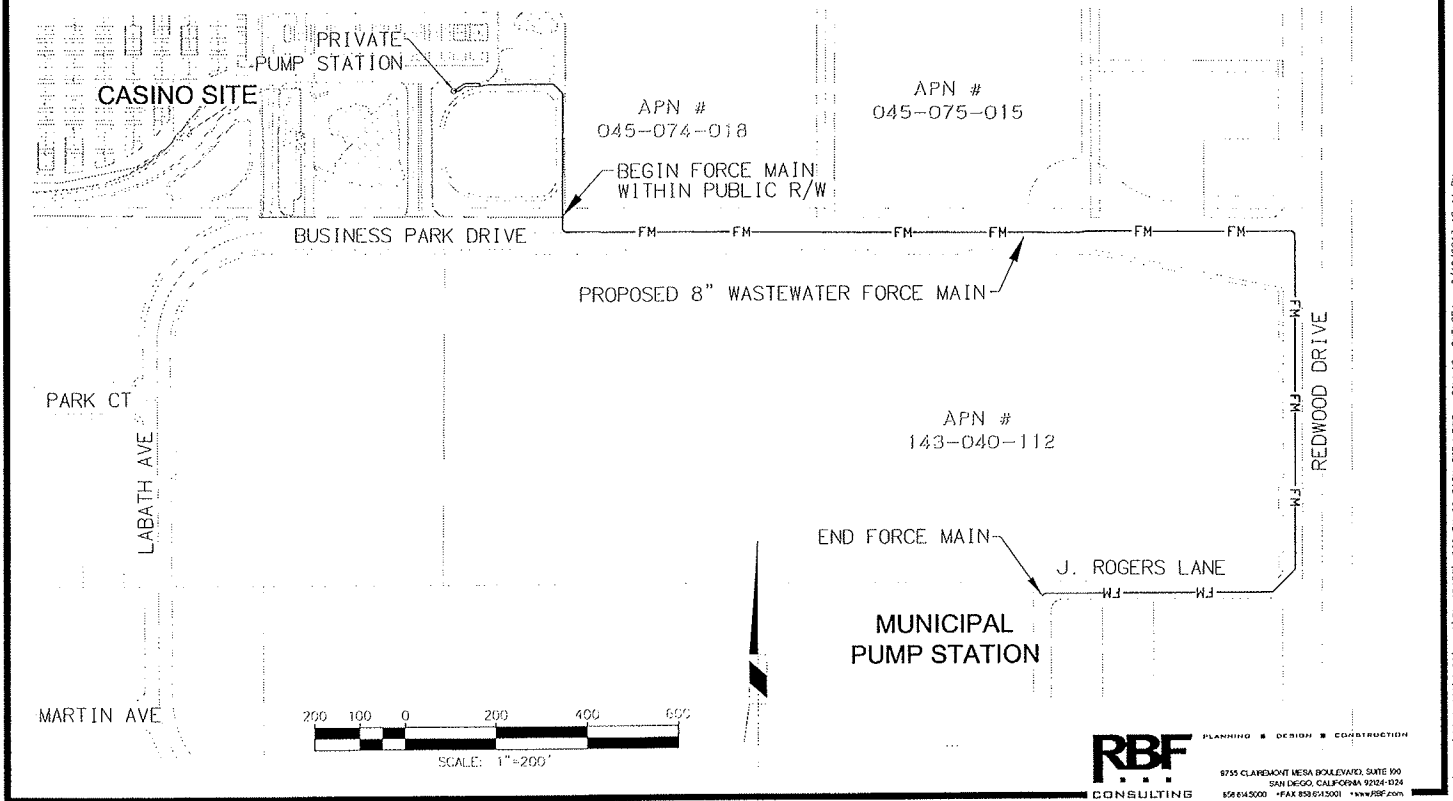
(Seal)

EXHIBIT A

Dedicated Facilities

Approximately 3,140 feet of new 8" Wastewater Force Main installed per the City of Rohnert Park's standards. From the southeastern boundary of the Graton Rancheria Casino Project site running east along Business Park Drive then turning south on Redwood Drive and then turning west on J. Rogers Lane where it terminates in at a manhole in front of the City of Rohnert Park pump station.

**GRATON RANCHERIA CASINO
OFF-SITE UTILITY WASTEWATER FORCE MAIN
CITY OF ROHNERT PARK, CALIFORNIA**



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CERTIFICATE OF ACCEPTANCE

Signature _____