



# County of El Dorado

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## Legislation Details (With Text)

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**Type:** Agenda Item      **Status:** Approved

**File created:** 12/7/2018      **In control:** Board of Supervisors

**On agenda:** 12/18/2018      **Final action:** 12/18/2018

**Title:** Chief Administrative Office recommending the Board approve and authorize the Chair to sign the Tax Sharing Agreement between the Shingle Springs Band of Miwok Indians and El Dorado County for the gas station on Shingle Springs Drive near Highway 50.

**FUNDING:** Sales Tax.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Tax Sharing Agreement, 2. Executed Agreement

Date	Ver.	Action By	Action	Result
12/18/2018	1	Board of Supervisors	Approved	Pass

Chief Administrative Office recommending the Board approve and authorize the Chair to sign the Tax Sharing Agreement between the Shingle Springs Band of Miwok Indians and El Dorado County for the gas station on Shingle Springs Drive near Highway 50.

**FUNDING:** Sales Tax.

### DISCUSSION / BACKGROUND:

Through its development corporation, Shingle Springs Band of Miwok Indians ("Tribe") owns and operates a gas station on Shingle Springs Drive near Highway 50 that opened in late August 2018. Because the gas station is located on land held in trust by the federal government for the Tribe, the County lacks the ability to ensure it receives tax revenue from gas station sales, which the County would otherwise receive if the gas station was not operated on tribal trust land.

Before the gas station was constructed, the Tribe made a commitment to the County to enter a tax sharing agreement to address the loss of tax revenue that the County would likely experience when the gas station opened. This commitment was reaffirmed in the settlement agreement that resolved the legal challenge that El Dorado Council.org and El Dorado Council, Inc. brought based on the County's issuance of an encroachment permit for the gas station.

The Tribe is also seeking to amend its gaming Compact with the state. A primary reason the Tribe is seeking to amend its Compact is that other tribes have recently amended their compacts to provide the tribes with credits for payments made to local governments that the tribes would otherwise pay to the state Revenue Sharing Trust Fund or the Tribal Nation Grant Fund. The Tribe has requested the County's support of its effort to amend its Compact. The current draft of the amended compact does

not propose to increase or expand gaming at the Tribe's casino.

Through a series of negotiations between County staff and the Tribe, the attached proposed agreement was reached and has been executed by the Tribe. Because the Tribe is currently purchasing gas from a California distributor, it may be paying the applicable state and local taxes. The agreement is drafted to accommodate this possibility and any changes that may occur in the future.

The primary terms of the agreement are:

1. Term: The agreement will be for an initial term of 10 years and renew every ten years unless the gas station closes or the County and Tribe agree to amend or terminate the agreement.
2. Support Compact Amendment: The County will support the Tribe's effort to amend its Compact with the state, provided that the amendment does not provide for increased or expanded gaming machines or operations or a limitation in the environmental review for any other Tribal projects.
3. State Taxes: The Tribe will either (1) confirm that it is paying all applicable state taxes that a non-tribal gas station would pay; or (2) remit to the County 0.75% of all gross receipts for the sale of gas and personal property (excluding cigarettes) to the County, which could be used for unrestricted general fund purposes.
4. Local Taxes: The Tribe will either (1) confirm that it is paying all applicable local taxes that a non-tribal gas station would pay; or (2) remit to the County 1.25% of all gross receipts for the sale of gas and personal property (excluding cigarettes) to the County, which could be used for road maintenance, infrastructure development, tribal cultural site protection, and public safety.

During negotiations, County staff and the Tribe recognized the value to the community and tribal members of continued efforts to improve relationships and this agreement is one step in that direction. To facilitate those efforts, the agreement provides that the County will recognize when projects are funded under the agreement and that the County will consider any projects the Tribe proposes be funded under the agreement.

## **ALTERNATIVES**

The Board could choose not to approve the agreement and direct staff to pursue further negotiations with the Tribe.

## **PRIOR BOARD ACTION**

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel

## **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

If the Tribe is and continues to pay state and local taxes directly to the state then the agreement

would have no financial impact and the County would continue to receive revenue similar to a non-tribal gas station. If the Tribe does not pay state or local taxes, the agreement would provide the following revenue:

Local: 1.25% of gross receipts excluding cigarettes

State: 0.75% of gross receipts excluding cigarettes

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Please provide a signed copy of the contract to Karen Feathers, in the Chief Administrative Office, and Breann Moebius in County Counsel.

### **STRATEGIC PLAN COMPONENT**

Good Governance, Infrastructure, and Public Safety

### **CONTACT**

Don Ashton, Chief Administrative Officer

Breann Moebius, Deputy County Counsel