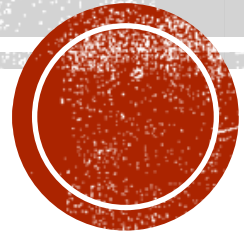
A PRACTICAL APPROACH TO INTERGOVERNMENTAL AGREEMENTS



IMLA Annual Conference 2020
Steve Bodmer

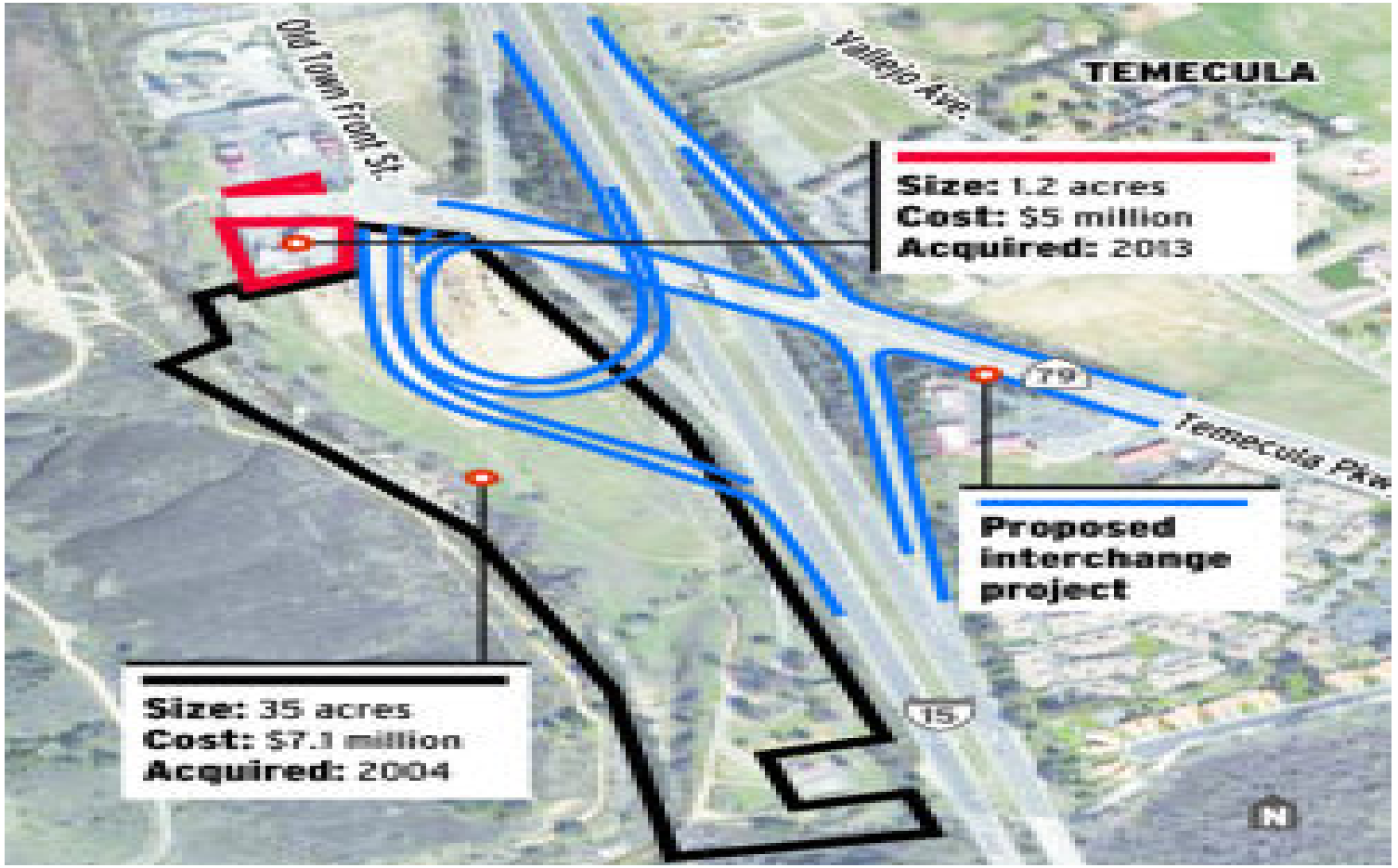
HISTORICAL TREATMENTS OF TRIBES BY STATES AND MUNICIPALITIES

- [Indian communities] owe no allegiance to the States, and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies.

-Justice Miller, United States v. Kagama



COOPERATIVE AGREEMENTS NOT MEMORIALIZED BY IGA



I-15/Temecula Parkway Interchange

COOPERATIVE AGREEMENTS NOT MEMORIALIZED BY IGA



Pueska Mountain Day

UNDERSTANDING THE ISSUE AND EACH OTHER

- Not unlike most negotiations it is critical to understand the party and their interest. The Tribe is adjacent to the City and both the City and the Tribe are within the County

- What is the issue requiring the IGA?
  - Is the IGA mandatory or voluntary
  - What law dictates if it is mandatory or what issue has arisen to make it voluntary

- What do the parties know about each other?
  - Often there is a misunderstanding of each other at this fundamental level
  - Example: Thoughts that tribes should pay more or City or Counties are overreaching




PYCHAVGA

COMPACT REQUIREMENTS FOR IGA

- Intergovernmental Agreement (IGA) with City of Temecula and County of Riverside required by Amended Tribal-State Compact to mitigate Pechanga Resort & Casino (PRC) Hotel Expansion Project
- Compact Section 10.8.8: "Before the commencement of a Project…the Tribe shall offer to begin negotiations with the County and any impacted City in which the Gaming Facility is located or adjacent to…and shall enter into enforceable written agreements with the County and any Impacted City which include all of the following:
  - (ii) Provisions relating to reasonable compensation for law enforcement, fire protection, emergency medical services and any other public services to be provided…
  - (iii) Provisions providing for mitigation of any effect on public safety attributable to the Project, including any reasonable compensation to the County and any Impacted City as a consequence thereof.
  - (iv) Provisions providing for reasonable compensation for programs designed to address gambling addiction."

TERMS OF AN IGA

- Importance of understanding the issue, understanding what is trying to be solved for.

- How to avoid disputes:
  - In advance of our most recent IGA with the City and County, our IGA team prioritized getting to know the individuals conducting the IGA negotiations
    - The principals were already familiar with each other from a political level
  - Our initial meetings were not intense and tedious discussions
    - Conversations were collegial and discussed how we've worked together in the past, even when we were not in complete agreement.
    - Conversations were preliminary discussions of ideas and where each group could find information about issues that would be negotiated

HOW CAN ALL OF THIS HELP IN TODAY'S PANDEMIC ENVIRONMENT

- Ensuring relationships with everyone involved are cordial and not adversarial creates better avenues of discussion.
- Understanding the stress and strain the pandemic has brought to each community is critical
  - Tribes are not casinos – Tribes are governments fighting for their constituents just like local and state governments.
  - Tribes were required to validate themselves to the Dept of Treasury to ensure they properly received a share of CARES Act funding to assist in recovery of the economic impacts of COVID-19.
  - Tribes and local communities will be feeling the impacts of this pandemic for time to come as we have not been able to bring back thousands of employees.
- Tribes and Counties can work together managing limited resources around the pandemic, identifying better was to share contact tracing information etc.

