



January 22, 2020

Ellen H. Grover
Karnopp Peterson LLP
360 SW Bond Street, Suite 400
Bend, OR 97702

Re: Review of Loan Documents for the Warm Springs Casino Enterprise

Dear Ms. Grover:

This letter responds to your December 12, 2019 request on behalf of the Warm Springs Casino Enterprise, a tribally chartered corporation owned by the Confederated Tribes of the Warm Springs Reservation, for the National Indian Gaming Commission's Office of General Counsel to review Loan Documents between the Tribe and Columbia State Bank. Specifically, you have asked for my opinion whether the Loan Documents constitute a management contract or collateral agreement to a management contract requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act, and whether they violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submission:

- Credit Agreement, marked in lower left corner with 4810-4012-6341\8;
- Security Agreement, marked in lower left corner with 4841-9339-6613\4;
- Deposit Account Control Agreement, marked in lower left corner with 4815-2654-0165\2;
- Non-Disturbance Agreement, marked in lower left corner with 4813-8626-5736\5; and
- Guaranty, marked in lower left corner with 4840-1308-9928\3.

The Loan Documents contain terms similar to other agreements the Office of General Counsel has reviewed and analyzed, opinion letters for which are available on the NIGC website. Applying the same analysis here, it is my opinion that the Loan Documents are not management contracts or collateral agreements to a management contract, and do not require the approval of the Chair. It is also my opinion that the Loan Documents do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the Loan Documents are represented to be in substantially final form with respect to terms affecting this opinion. If they change in any material way prior to closing, this opinion shall not apply. Further, this opinion is limited to the Loan Documents

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listed above and does not include or extend to any other agreements or documents not submitted for review.

Please note that it is my intent that this letter be released to the public through the NIGC's website. If you have any objection to this disclosure, please provide a written statement explaining the grounds for the objection and highlighting the information that you believe should be withheld. *See* 25 C.F.R. § 517.7(c). If you object on the grounds that the information qualifies as confidential commercial information subject to withholding under Exemption Four of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356 (2019). Please support any claim of confidentiality with "a statement or certification by an officer or authorized representative of the submitter." *See* 25 C.F.R. § 517.7(d). Please submit any written objection to FOIASubmitterReply@nigc.gov **within thirty (30) days of the date of this letter**. After this time elapses, this letter will be made public and objections will no longer be considered. *Id.*

If you have any questions, please contact NIGC Senior Attorney Maria Getoff at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenic". The signature is written in a cursive style with a horizontal line extending to the right.

Michael Hoenic
General Counsel