



March 9, 2020

VIA U.S. MAIL & FACSIMILE

Andrew Alejandre, Chairman
Paskenta Band of Nomlaki Indians
P.O. Box 709
Corning, California, 96021

**Re: Review of Loan Agreement, Security Agreement, and Exhibits on behalf of the
Paskenta Band of Nomlaki Indians**

Dear Chairman Alejandre:

This letter responds to the November 25, 2019, request on behalf of the Paskenta Band of Nomlaki Indians for the National Indian Gaming Commission's Office of General Counsel to review the loan documents between the Paskenta Band of Nomlaki and Wells Fargo, National Association. Specifically, you have asked for my opinion on whether the Loan Documents are a management contract requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act. You also asked for an opinion whether the agreement violates IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following documents submitted on behalf of the Band, which were unexecuted, but were represented to be in substantially final form (Collectively "Loan Documents"):

- Loan Agreement, marked as: US.124489386.14, NIGC Draft 11/25/2019
- Security Agreement, marked as US.124581069.06, NIGC Draft 11/25/2019
- Exhibits to the Loan Agreements, marked as US.124584237.04, NIGC Draft 11/25/2019

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.

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

Chairman Andrew Alejandre

Re: Review of Loan Agreement, Security Agreement, and Exhibits on behalf of the Paskenta Band of Nomlaki Indians

March 9, 2020

Page 2 of 2

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). Any claim of confidentiality should also be supported 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, the letter will be made public and objections will no longer be considered. *Id.*

If you have any questions, please contact NIGC Staff Attorney Heather McMillan Nakai at (202) 527-5577.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is written in a cursive style with a large, stylized "H" and a long horizontal stroke at the end.

Michael Hoenig
General Counsel

cc: Aaron Pratt