



May 20, 2020

Townsend Hyatt
Orrick, Herrington & Sutcliffe LLP
1120 NW Couch Street
Suite 200
Portland, OR 97209-4163

Re: Review of Loan Documents for the Twenty-Nine Palms Enterprises Corporation

Dear Mr. Hyatt:

This letter responds to your May 1, 2020 request on behalf of the Twenty-Nine Palms Enterprises Corporation for the Office of General Counsel, National Indian Gaming Commission, to review Loan Documents. 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 (collectively referred to as "the Loan Documents"):

1. Second Modification to Loan Documents (marked at top right as "OHS Draft: 5/1/2020"),
2. Credit Agreement (marked at top right as "Reflecting First & Second Modifications").

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

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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). 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 Senior Attorney Austin Badger at (202) 632-7003.

Sincerely,

A handwritten signature in blue ink that reads "Michael Hoenig". The signature is fluid and cursive, with a large, stylized initial "M" and a long, sweeping underline.

Michael Hoenig
General Counsel