



June 17, 2016

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

Re: Response to request for review of Loan Documents between the Torres Martinez Desert Cahuilla Indians (“Tribe”), the Torres Martinez Gaming Corporation (“the Borrower”), the Sélnek-iš Tem-AI Corporation (“the Parent Corporation”) and the Mutual of Omaha Bank (“Lender”), and for issuance of a declination letter

Dear Attorney Hyatt:

This letter responds to your letter, dated May 4, 2016, to the National Indian Gaming Commission on behalf of the Torres Martinez Desert Cahuilla Indians, the Torres Martinez Gaming Operation, the Sélnek-iš Tem-AI Corporation and the Mutual of Omaha Bank requesting our review of drafts of a Loan Agreement, Security Agreements, and other related documents between the above parties. Specifically, you ask for an opinion from the NIGC’s Office of General Counsel that the Loan Agreement and related documents do not, individually or collectively, constitute a management contract requiring the NIGC Chair’s approval under the Indian Gaming Regulatory Act. You also ask for an opinion that the Loan Agreement and related documents do not violate IGRA’s requirement that a tribe have the sole proprietary interest in any of its gaming operations.

With your letter, you provided the NIGC with drafts of the above-referenced Loan Agreement and related documents (collectively, “the Loan Documents”). On June 3, 2016, you provided us with revised drafts of the Loan Agreement and the Deposit Account Control Agreement. In response to your May 4th request, I have reviewed and considered the following draft documents:

- (1) Loan Agreement, dated May 4, 2016, with the following exhibits and schedules, dated June 3, 2016:
 - Ex. A Form of Compliance Certificate
 - Ex. B Form of Promissory Note
 - Ex. C Request for Loan
 - Sch. 1.1 Real Property

- Sch. 4.11 Litigation
 - Sch. 4.20 Environmental Matters
 - Sch. 4.28 Required Approvals, Permits, Etc.
 - Sch. 4.30 Subsidiaries
 - Sch. 4.31 Agreements to Sell Assets, Etc.
 - Sch. 4.33 Accounts
 - Sch. 4.38 Existing Non-Recourse Debt
 - Sch. 4.39 Capital Leases, Operating Leases and Gaming Device Agreements
 - Sch. 5.3 Insurance Requirements
 - Sch. 6.6 Existing Liens
 - Sch. 6.7 Existing Recourse Debt;
- (2) Security Agreement, dated May 4, 2016, between the Borrower, the Torres Martinez Gaming Corporation, and the Lender, the Mutual of Omaha Bank;
 - (3) Security Agreement, dated May 4, 2016, between the Tribe, the Parent Corporation and the Lender;
 - (4) Tribal Agreement, dated May 4, 2016, between the Tribe, the Parent Corporation and the Lender;
 - (5) Deposit Account Control Agreement, dated June 3, 2016, between the Borrower, the Lender and the depository bank, Pacific Premier Bank; and
 - (6) Consent to Enter Trust Lands between the Tribe and the Lender, dated May 4, 2016.

The Loan Documents contain terms similar to other agreements the Office of General Counsel has reviewed and analyzed in the past.¹ 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, therefore, do not require the approval of the NIGC's Chairman. It is also my opinion that they do not violate IGRA's sole proprietary interest mandate.

I note that each of the Loan Documents has been submitted to us as an unexecuted draft in what has been represented to be substantially final form. To the extent that these documents change in any material way, this opinion shall not apply. Additionally, this opinion applies only to the existing Loan Documents, and does not apply to any missing documents or future documents incorporating extensions, modifications, supplements or other changes to the Loan Documents.

¹ See the NIGC website for previously issued advisory opinion letters issued by NIGC General Counsel as to whether specific agreements between tribes and third parties constitute management contracts under IGRA and/or violate IGRA's sole proprietary interest mandate.

I anticipate that this letter will be posted to the NIGC's website. Prior to the letter's posting, the NIGC Freedom of Information Act ("FOIA") Officer will notify you to give you an opportunity to identify and request that any information, which may be exempted under FOIA, be redacted or withheld. A list of the FOIA exemptions may be found at 5 U.S.C. § 552(b).

If you have any questions, please contact Staff Attorney Katherine Zebell at (202) 632-7003.

Sincerely,

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

Michael Hoenig
General Counsel

- cc: (1) Eugene Madrigal, Esq.,
Counsel for the Torres Martinez
Gaming Corporation and the
Sélnék-iš Tem-AI Corporation
(2) Thomas Weathers, Esq.,
Counsel for the Tribe