



September 14, 2020

Via E-mail

Chief Gary Batton
Choctaw Nation of Oklahoma
Post Office Box 1210
Durant, OK 74702

Re: Review of the Choctaw Nation of Oklahoma Revolving Loan Facility

Dear Chief Batton:

This letter responds to the June 22, 2020, request on behalf of the Choctaw Nation of Oklahoma (Nation) for the National Indian Gaming Commission's Office of General Counsel to review certain agreements between the Choctaw Nation of Oklahoma, certain lenders, and the Bank of Oklahoma. Specifically, you have asked for my opinion on whether the agreements are management contracts requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act. You also asked for an opinion whether the agreements violate 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 Nation, which were unexecuted, but were represented to be in substantially final form (Collectively "Revolving Loan Facility"):

- Loan Agreement, marked POTA0001
- Form of Revolving Credit Note, marked POTA0002
- Security Agreement, marked POTA0003
- Bank Deposit Account Control Agreement, marked POTA0004
- Intellectual Property Security Agreement, marked as POTA0005

The Revolving Loan Facility 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 Revolving Loan Facility documents are not management contracts or collateral agreements to a management contract, and do not require the approval of the Chairman. It is also my opinion that the Loan Documents do not violate IGRA's sole proprietary interest requirement.

Chief Gary Batton

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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, at *7 (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,



Michael Hoenig
General Counsel

cc: Stephen Ward, via e-mail at: SWard@cwlaw.com