



August 30, 2021

***VIA EMAIL***

Randolph DelFranco  
31 West 52nd Street  
New York, NY 10019

**Re: Review of Loan Documents for River Rock Entertainment Authority**

Dear Mr. DelFranco:

This letter responds to your July 23, 2021 request for the National Indian Gaming Commission's Office of General Counsel to review a loan agreement between the River Rock Entertainment Authority and Capital One to refinance existing indebtedness of the Authority.

Specifically, you have asked for my opinion whether the loan agreement constitute a management contract. You also asked for my opinion whether the agreement violates IGRA's requirement that the Tribe have the sole proprietary interest in its gaming activity.

In my review, I considered the following documents:

1. Loan Agreement, among River Rock Entertainment Authority, as the Borrower, the Tribe and Capital One, National Association as the Lender ("Loan Agreement") (marked bottom left as "4842-5744-8691\8" and top right as "DW Draft 7/23/21");
2. Term Note (marked at bottom left as "4826-7619-6339\2");
3. Revolving Note (marked at bottom left as "4824-0939-9283\2");
4. Tribal Agreement, between the Tribe and the Lender (marked at bottom left as "4836-0487-0128\7" and at top right as "DW Draft 7/23/21");
5. Security Agreement, by the Authority in favor of the Lender (marked at bottom left as "4838-8936-1904\6" and at top right as "DW Draft 7/23/2021");

(collectively, the "Loan Documents"). The documents were unexecuted, but represented to be in substantially final form.

The Loan Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed, which are available on the NIGC's website. Applying the same analysis here, it is my opinion that the Loan Documents do not constitute a

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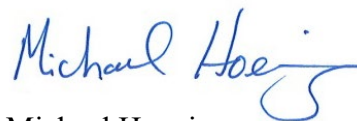
management contract and does not require the approval of the NIGC Chair. It is also my opinion that the Loan Documents do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the draft is represented to be in substantially final form, and if the Loan Documents change in any material way prior to execution or are inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the documents listed above. This opinion does not include or extend to any other agreements 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.<sup>1</sup> 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),<sup>2</sup> please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.<sup>3</sup> Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."<sup>4</sup> 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.<sup>5</sup>

If you have any questions, please contact Joshua Proper at (202) 632-0294 or joshua\_proper@nigc.gov.

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 "O".

Michael Hoenig  
General Counsel

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<sup>1</sup> See 25 C.F.R. § 517.7(c).

<sup>2</sup> 5 U.S.C. § 552(b)(4).

<sup>3</sup> 139 S. Ct. 2356 (2019).

<sup>4</sup> See 25 C.F.R. § 517.7(d).

<sup>5</sup> *Id.*