



October 25, 2021

**VIA EMAIL**

Ken Ramirez, Chairman  
San Manuel Band of Mission Indians  
26569 Community Center Drive  
Highland, CA 92346

**Re: Review of the 2021 Loan Documents for the San Manuel Band of Mission Indians**

Dear Chairman Ramirez:

This letter responds to your September 29, 2021 request, on behalf of the San Manuel Entertainment Authority, an instrumentality of the San Manuel Band of Mission Indians, for the National Indian Gaming Commission, Office of General Counsel, to review certain loan documents and to provide an opinion as to whether or not these loan documents are management contracts requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. You have also asked for my opinion as to whether or not the loan documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submissions (collectively, "the 2021 Loan Documents"):

1. *Credit Agreement Dated as of [\_\_], 2021 among San Manuel Entertainment Authority, as the Borrower, The Subsidiaries of the Borrower Party Hereto, as the Guarantors, Bank of America, N.A., as Administrative Agent, Swingline Lender and L/C Issuer, and The Lenders Party Hereto, BOFA Securities, Inc. and U.S. Bank National Association, as Joint Lead Arrangers, BOFA Securities, Inc., as Sole Bookrunner* (marked at top right as "[NIGC Draft 9/24/2021]");
2. Exhibits to Credit Agreement (marked at top right as "[NIGC Draft 9/24/2021]" and at bottom left as "SMRH:4832-3375-4356.10");
3. *Tribal Agreement* (marked at top right as "[NIGC Draft 9/24/2021]" and at bottom left as "SMRH:4842-0198-8855.7");
4. *Security Agreement* (marked at top right as "[NIGC Draft 9/24/2021]" and at bottom left as "SMRH:4816-4921-6757.6");
5. *Notice of Grant of Security Interest in Copyrights* (marked at top right as "[NIGC Draft 9/24/2021]" and at bottom left as "SMRH:4838-8037-8362.2");
6. *Notice of Grant of Security Interest in Trademarks* (marked at top right as "[NIGC Draft 9/24/2021]" and at bottom left as "SMRH:4818-3142-2966.3"); and
7. *Blocked Account Control Agreement (Springing Block)* (marked at top right as "[NIGC Draft

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9/24/2021]”).

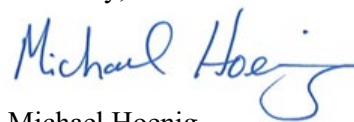
The 2021 Loan Documents contain terms similar to other agreements that OGC has previously reviewed and analyzed. Applying the same analysis here, it is my opinion that, collectively, the 2021 Loan Documents are not management contracts and do not require the approval of the NIGC Chairman. It is also my opinion that they do not violate IGRA’s sole proprietary interest requirement.

It is my understanding that the 2021 Loan Documents are represented to be in substantially final form, and any further changes will not be material to OGC’s analysis. This opinion shall not apply if the 2021 Loan Documents change in any material manner prior to closing or are inconsistent with the assumptions made herein. Further, this opinion is limited to the aforementioned 2021 Loan Documents and 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 the information was voluntarily submitted and, as such, 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. *Id.* If you need any additional guidance regarding potential grounds for withholding, please see the United States Department of Justice’s *Guide to the Freedom of Information Act* at <<https://www.justice.gov/oip/doj-guide-freedom-information-act-0>>.

If you have any questions, please contact Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Michael Hoenig  
General Counsel

cc: Bianca Levin-Soler, Esq. (via email only: <[bianca.levinsoler@sanmanuel-nsn.gov](mailto:bianca.levinsoler@sanmanuel-nsn.gov)>)  
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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).