



July 24, 2023

VIA E-MAIL

Eric Van Orden, Esq.
Coeur d'Alene Tribe
P.O. Box 408
Plummer, ID 83851

Re: Review of Financing Agreements for the Coeur d'Alene Tribe and Umpqua Bank

Dear Mr. Van Orden:

This letter responds to your June 1, 2023, request on behalf of your client, the Coeur d'Alene Tribe ("Tribe"), for the National Indian Gaming Commission ("NIGC") Office of General Counsel to review certain loan documents between the Tribe and Umpqua Bank.¹ Specifically, the Tribe seeks a legal advisory opinion addressing whether these documents constitute a management contract, requiring the NIGC Chairman's approval under the Indian Gaming Regulatory Act ("IGRA"), and whether the agreement violates IGRA's mandate that a tribe have the sole proprietary interest in its gaming activity.

In my review, I considered the following submissions ("Loan Documents") which are unexecuted, but represented to be in substantially final form:

1. Credit Agreement (NIGC Revised Draft 4867-5709-9097\10 as of 07/12/2023), including Schedule 5.14 (Properties), Schedule 5.36 (Deposit Accounts), Schedule 6.6 (Insurance), Schedule 6.11 (Indebtedness), Schedule 6.14 (Investments), Schedule 6.15 (Liens), Exhibit A (Form of Compliance Certificate), Exhibit B (Form of Revolving Note), and Exhibit C (Form of Borrowing Notice);
2. Deposit Account Control Agreement (NIGC Draft 4877-2761-1750\3 as of 06/01/2023);
3. Revolving Note (NIGC Draft 4870-0690-4167\2 as of 06/01/2023); and
4. Security Agreement (NIGC Draft 4882-6097-3150\3 as of 06/01/2023).

The Loan Documents contain terms similar to other agreements the Office of General Counsel has reviewed, analyzed, and issued opinions for, which are available on the NIGC

¹ On July 12, 2023, Michael Pignato, legal counsel for Umpqua Bank, transmitted an amended Credit Agreement to NIGC.

Letter to Eric Van Orden

Re: Review of Financing Agreements for the Coeur d'Alene Tribe and Umpqua Bank

July 24, 2023

Page 2 of 2

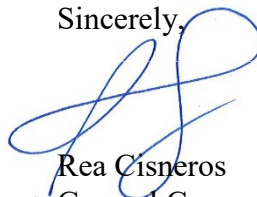
website. Applying the same analysis here, it is my opinion that the Loan Documents do not constitute a management contract and do not require the Chairman's approval. Nor, in my opinion, do the Loan Documents violate IGRA's sole proprietary interest mandate.

It is my understanding that the Loan Documents are represented to be in substantially final form with respect to terms affecting this opinion. If the Loan Documents change in any material way prior to closing or are inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Loan Documents identified above and do not include or extend to any other agreements or documents not submitted for review.

Please note that it is my intent to release this letter to the public through the NIGC's website. If your client has any objection to this disclosure, please provide a written statement explaining the grounds for the objection and highlighting the information that your client believes should be withheld.² If your client objects on the grounds that the information qualifies as confidential commercial information subject to withholding under Exemption Four of the Freedom of Information Act³ ("FOIA"), please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.⁴ Please support any claim of confidentiality with "a statement or certification by an officer or authorized representative of the submitter."⁵ Please submit any written objection to FOIASubmitterReply@nigc.gov **within thirty (30) days of the date of this letter**. After this time elapses, I will make this letter public and will no longer consider objections.⁶ If your client needs 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 or require anything further, please contact NIGC Staff Attorney, Adam L. Candler, at 202-580-5718 or by e-mail at adam.candler@nigc.gov.

Sincerely,



Rea Cisneros
General Counsel (Acting)

cc: Jacob Lund, Associate, Dorsey & Whitney LLP
Mark Makley, Chief Financial Officer, Coeur d'Alene Tribe
Kris Nixon, Chief Financial Officer, Coeur d'Alene Tribe
Michael Pignato, Partner, Dorsey & Whitney LLP

² See 25 C.F.R. § 517.7(c).

³ 5 U.S.C. § 552(b)(4).

⁴ See *Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356 (2019).

⁵ 25 C.F.R. at § 517.7(d).

⁶ See *id.*