



June 20, 2024

VIA EMAIL

Octavio Escobedo III, Tribal Chairman
Tejon Indian Tribe
4941 David Rd
Bakersfield, CA 93307

Re: Review of the 2024 Loan Documents for the Tejon Indian Tribe

Dear Chairman Escobedo:

This letter responds to your February 1, 2024 request, on behalf of the Tejon Indian Tribe and the Tejon Gaming Authority for the National Indian Gaming Commission, Office of General Counsel, to review certain transaction documents and to provide an opinion as to whether or not these transaction documents are management contracts requiring the NIGC Chair's approval pursuant to the Indian Gaming Regulatory Act (IGRA). You have also asked for my opinion as to whether or not the transaction documents violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submission (collectively, "the 2024 Loan Documents"):

- (b) (4) *CREDIT AGREEMENT among TEJON GAMING AUTHORITY, as Borrower, TEJON INDIAN TRIBE, as the Tribe, THE LENDERS PARTY HERETO, as Lenders and CA FUNDING LENDER III LLC, as Administrative Agent and Collateral Agent, dated as of [___], 2024 (titled "Tejon - Credit Agreement [LW 4-10-24]-v22, submitted Apr. 11, 2024);*
 - Exhibit A: Form of Note (marked at bottom left as "US-DOCS\146010254.4")
 - Exhibit B-1: Form of Notice of Intent to Fund (marked at bottom left as "US-DOCS\146349979.2")
 - Exhibit B-2: Form of Funding Notice (marked at bottom left as "US-DOCS\146026443.9")
 - Exhibit B-3: Form of Notice of Conversion/Continuation (marked at bottom left as "US-DOCS\146026397.5")
 - Exhibit C-1: Form of Guaranty (marked at bottom left as "US-DOCS\146076493.7");

MAILING ADDRESS: NIGC/DEPARTMENT OF THE INTERIOR 1849 C Street NW, Mail Stop #1621 Washington, DC 20040 Tel: 202.632.7003 Fax: 202.632.7066

REGIONAL OFFICES Portland, OR; Sacramento, CA; Phoenix, AZ; St. Paul, MN; Tulsa, OK; Oklahoma City, OK; Rapid City, SD

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- Exhibit C-2: Form of Security Agreement (marked at bottom left as “US-DOCS\146004779.6”);
- Exhibit D: Form of Solvency Certificate (marked at bottom left as “US-DOCS\146058687.3”)
- Exhibit E: Form of Compliance Certificate (marked at bottom left as “US-DOCS\146353927.4”)
- Exhibit F: Form of Assignment and Acceptance (marked at bottom left as “US-DOCS\146059235.4”)
- Exhibit G: Form of US Tax Compliance Certificates (marked at bottom left as “US-DOCS\146008856.5”)
- Exhibit H: Form of Closing Certificate (marked at bottom left as “[US-DOCS\146353925.3”)
- Exhibit I: Insurance Requirements (marked at bottom left as “US-DOCS\119766771.10”);
- Exhibit J: Form of Intercompany Subordinated Demand Note (marked at bottom left as “US-DOCS\146075627.5”)
- Exhibit K-1: Form of SCCR Developer Subordination Agreement (submitted Feb. 1, 2024);
- Exhibit K-2: Form of SCCR Manager Subordination Agreement (submitted Feb. 1, 2024);
- Exhibit L: Form of Administrative Questionnaire (marked at bottom left as “US-DOCS\119530443.3”)
- Exhibit M: Form of Project Budget Amendment Certificate (marked at bottom left as “US-DOCS\146074460.7”)
- Exhibit N: Construction Contract Amendment Certificate (marked at bottom left as “US-DOCS\146074463.7”)
- Exhibit O: Form of Additional Construction Contract Certificate (marked at bottom left as “US-DOCS\146074464.5”)
- Exhibit P: Form of Lien Releases (submitted Feb. 1, 2024)
- Exhibit Q: Form of Project Cost Schedule Certificate (marked at bottom left as “US-DOCS\146091415.7”)
- Exhibit R: Form of Final Plans and Specifications Amendment Certificate (marked at bottom left as “US-DOCS\146091845.5”)
- Exhibit S: Form of Initial Operating Date Certificate (marked at bottom left as “US-DOCS\146066688.5”)
- Exhibit T: Form of Removal of Architect Certificate (marked at bottom left as “US-DOCS\146066687.4”)
- Exhibit U: Form of Removal of General Contractor Certificate (marked at bottom left as “US-DOCS\146066686.4”)
- Exhibit V: Form of Borrower’s Final Completion Certificate (marked at bottom left as “US-DOCS\146029667.5”)
- Deposit Account Control Agreement (Access Restricted after Notice) (marked at bottom left as “*DACA-STD-ARAN-FCA (Revised 10/08/20) #233784355_v6*”)

The 2024 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 the

2024 Loan Documents are not management contracts and do not require the approval of the NIGC Chair. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

It is my understanding that the 2024 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 2024 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 2024 Loan Documents and does not include or extend to any other agreements not submitted for review. I also understand that the Tribe submitted a management contract for review and approval by the NIGC Chair. The Division of Finance may have additional questions or require amendments to financing materials within the context of the management contract 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.¹ 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),² 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*.³ Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."⁴ Please submit any written objection to foia@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.⁵ 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 Mila Ervin, Acting Associate General Counsel at (301) 751-7700 or femila.ervin@nigc.gov.

Sincerely,



Rea Cisneros
General Counsel (Acting)

cc: Brett Rosenblatt, Counsel to the Tribe

¹ 25 C.F.R. § 517.7(c).

² 5 U.S.C. § 552(b)(4).

³ 588 U.S. 427 (2019).

⁴ 25 C.F.R. § 517.7(d).

⁵ *Id.*

Kevin Wadzinski, Counsel to the Tribe
Joseph Webster, Counsel to Hard Rock International
Marc Lashbrook, Counsel to the Administrative Agent
Miko Hernandez, Counsel to the Administrative Agent