



December 23, 2021

VIA EMAIL

Scott Wheat, General Counsel
Confederated Tribes of Coos, Lower Umpqua
and Siuslaw Indians
23215 W. Long Lake Road
Ford, WA 99013

**Re: Review of Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
Financing Agreement**

Dear Mr. Wheat:

This letter responds to your request of November 16, 2021, for the National Indian Gaming Commission's Office of General Counsel to review a credit agreement between the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribe) and Zions Bancorporation, N. A. Specifically, you have asked for my opinion whether the document is a management contract requiring the NIGC Chairman's approval under the Indian Gaming Regulatory Act (IGRA). You have also asked for my opinion whether the loan document violates IGRA's requirement that the Tribe have the sole proprietary interest in its gaming activity.

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

- Credit Agreement, marked at the top right corner as "DW Draft 11/12/2021" and at the bottom left corner as "4838-7601-4590\8";
- Security Agreement, marked at the top right corner as "DW Draft 11/11/2021" and at the bottom left corner as "4856-6286-1059\2";
- Term Note, marked at the bottom left corner as "4877-5118-1827\2"; and
- Revolving Note, marked at the bottom left corner as "4855-1954-9955\2".

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 are not a management contract and does not require the approval of the NIGC Chairman. It is also my opinion that it does not violate IGRA's sole proprietary interest requirement.

Scott Wheat, General Counsel

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It is my understanding that the drafts are represented to be in substantially final form, and if the Loan Documents change in any material way prior to closing or is inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Loan 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.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), please be advised that any withholding should be analyzed under the standard set forth in *Food Marketing Institute v. Argus Leader Media*.² Any claim of confidentiality should also be supported with "a statement or certification by an officer or authorized representative of the submitter."³ 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.⁴ 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 NIGC Senior Attorney Esther Dittler at (202) 853-7511 or by email at Esther.Dittler@nigc.gov.

Sincerely,



Michael Hoenig
General Counsel

¹ 25 C.F.R. § 517.7(c).

² 139 S. Ct. 2356 (2019).

³ 25 C.F.R. § 517.7(d).

⁴ *Id.*