



December 19, 2014

*Via email and U.S. Mail*

Mr. John Maier  
Maier Pfeffer Kim Geary & Cohen LLP  
1440 Broadway, Suite 812  
Oakland, CA 94612-1520

Re: Review of financing documents for the Federated Indians of Graton Rancheria

Dear Mr. Maier:

This letter responds to the Federated Indians of Graton Rancheria's ("Tribe") request for the National Indian Gaming Commission's Office of General Counsel to review several agreements pertaining to a Proposed Credit Facility for the Graton Resort & Casino. The Tribe requested an opinion as to whether these agreements are management contracts requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act (IGRA).<sup>1</sup> The Tribe also requested an opinion on whether the agreements violate IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.<sup>2</sup>

In my review, I considered the following submissions (collectively, "the Financing Documents") all unexecuted, but represented to be in substantially final form:

- Revolving Credit and Term Loan Agreement, NIGC Submission Draft dated 12/17/14
- Appendix A to Revolving Credit and Term Loan, Principal Offices, NIGC Submission Draft dated 12/8/14
- Exhibit A-1 to Revolving Credit and Term Loan, Form of Term A Note, NIGC Submission Draft dated 12/8/14
- Exhibit A-2 to Revolving Credit and Term Loan, Form of Revolving Note, NIGC Submission Draft dated 12/8/14
- Exhibit B-1 to Revolving Credit and Term Loan, Form of Funding Notice, NIGC Submission Draft dated 12/8/14
- Exhibit B-2 to Revolving Credit and Term Loan, Form of Conversion/Continuation Notice, NIGC Submission Draft dated 12/8/14
- Exhibit B-3 to Revolving Credit and Term Loan, Form of Notice of Account Designation, NIGC Submission Draft dated 12/8/14

<sup>1</sup> 25 U.S.C. §§ 2711(a) and 2710(d)(9).

<sup>2</sup> 25 U.S.C. § 2710(b)(2)(A).

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- Exhibit C to Revolving Credit and Term Loan, Form of Guaranty, NIGC Submission Draft dated 11/15/14
- Exhibit D to Revolving Credit and Term Loan, Form of Solvency Certificate, NIGC Submission Draft dated 12/8/14
- Exhibit E to Revolving Credit and Term Loan, Form of Compliance Certificate, NIGC Submission Draft dated 12/4/14
- Exhibit F to Revolving Credit and Term Loan, Form of Assignment and Acceptance, NIGC Submission Draft dated 11/15/14
- Exhibit G to Revolving Credit and Term Loan, Form of Lender Addendum, NIGC Submission Draft dated 12/8/14
- Exhibit H to Revolving Credit and Term Loan, Form of Non-Bank Certificate, NIGC Submission Draft dated 12/8/14
- Exhibit I to Revolving Credit and Term Loan, Form of Closing Certificate, NIGC Submission Draft dated 11/17/14
- Exhibit J to Revolving Credit and Term Loan, Insurance Requirements, NIGC Submission Draft dated 11/20/14
- Exhibit K to Revolving Credit and Term Loan, Form of Intercompany Subordinated Demand Promissory Note, NIGC Submission Draft dated 11/15/14
- Exhibit L to Revolving Credit and Term Loan, Form of Subordination Agreement, NIGC Submission Draft dated 11/17/14
- Exhibit M to Revolving Credit and Term Loan, Form of Administrative Questionnaire, NIGC Submission Draft dated 11/18/14
- Exhibit N to Revolving Credit and Term Loan, Form of Joinder Agreement, NIGC Submission Draft dated 11/18/14
- Exhibit O to Revolving Credit and Term Loan, Form of Acknowledgment Agreement, NIGC Submission Draft dated 11/18/14
- Exhibit P to Revolving Credit and Term Loan, Form of Intercreditor Provisions, NIGC Submission Draft dated 11/18/14
- Collateral Agency Assignment and Amendment Agreement, NIGC Submission Draft dated 11/21/14
- Annex A to Collateral Agency Assignment and Amendment Agreement, Amendments to Security Agreement, NIGC Submission Draft received on 12/8/14
- Annex B to Collateral Agency Assignment and Amendment Agreement, Amendments to Intellectual Property Security Agreement, NIGC Submission Draft received on 11/23/14
- Annex C to Collateral Agency Assignment and Amendment Agreement, Amendments to Consent Agreement, NIGC Submission Draft dated 12/12/14
- Annex D to Collateral Agency Assignment and Amendment Agreement, Amendments to Subordination Agreement, NIGC Submission Draft received on 11/23/14
- First Amendment to Collateral Account Notification and Acknowledgment, NIGC Submission Draft dated 11/15/14
- Exhibit A to First Amendment to Collateral Notification and Acknowledgment, NIGC Submission Draft received on 11/23/14

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- Second Amendment to Deposit Account Control Agreement, NIGC Submission Draft dated 11/20/14
- Exhibit A to Second Amendment to Deposit Account Control Agreement, NIGC Submission Draft received on 11/23/14
- Joinder Agreement, NIGC Submission Draft dated 12/4/14

The Financing Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed.<sup>3</sup> Applying the same analysis here, it is my opinion that the Financing Documents are not management contracts and do not require the approval of the Chair. It is also my opinion that they do not violate IGRA's sole proprietary interest requirement.

I understand that the Financing Documents are in substantially final form with respect to terms affecting this opinion. If such terms change in any material way or are inconsistent with assumptions made herein, this opinion shall not apply. Further, this opinion is limited to the Financing Documents listed above. This opinion does not include or extend to any other agreements.

I anticipate this letter will be posted to the NIGC's website. Prior to posting, NIGC FOIA Office will notify you and give you an opportunity to identify and request that information subject to the exemptions under FOIA be redacted or withheld. A list of the FOIA exemptions may be found at 5 U.S.C. § 552(b).

If you have any questions, please contact NIGC Staff Attorney Andrew Mendoza at (202) 632-7003.

Sincerely,



Eric Shepard  
Acting General Counsel

cc: Greg Sarris, Tribal Chairman

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<sup>3</sup> See [www.nigc.gov/Reading\\_Room/Management\\_Review\\_Letters.aspx](http://www.nigc.gov/Reading_Room/Management_Review_Letters.aspx).