



October 2, 2014

C. Bryant Rogers
Vanamberg, Rogers, Yepa, Abeita & Gomez, LLP
P.O. Box 1447
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Re: Review of loan documents for the Pueblo of Nambe

Dear Mr. Rogers:

This letter responds to your initial request of February 17, 2014, and your more recent submission of August 22, 2014, on behalf of the Nambe Pueblo Gaming Enterprise (Enterprise) for the National Indian Gaming Commission's Office of General Counsel to review loan documents between the Enterprise and The First National Bank of Santa Fe (Lender). Specifically, you have asked for my opinion whether the loan documents constitute a management contract requiring the NIGC Chair's approval under the Indian Gaming Regulatory Act and whether the agreement violates 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 Loan Documents") which are unexecuted, but were represented to be in substantially final form:

- NPGE Doc# 1 - Promissory Note, marked at the top right as "8-19-14 FINAL";
- NPGE Doc#2 - Commercial Security Agreement, marked at the top right as "8-19-14 FINAL";
- NPGE Doc#3 -Construction Loan Agreement, marked at top right as "7-17-14 FINAL";
- NPGE Doc#4 - Assignment of Construction Contracts; marked at top right as "FINAL DRAFT 2-6-14"
- NPGE Doc#5 - Deposit Account Control Agreement, marked at the top right as "FINAL DRAFT 7-16-14";
- NPGE Doc#6 - Notice of Insurance Requirement, marked at top right as "7-18-14 FINAL";
- NPGE Doc#7 - Notice of Insurance Requirements, marked at top right as "FINAL 7-16-14";
- NPGE Doc#8 - Agreement to Provide Insurance, marked at top right as "FINAL DRAFT 7-16-14";

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- NPGE Doc#9 - Agreement to Provide Insurance, marked at top right as “FINAL DRAFT 7-16-014”;
- NPGE Doc#10 - Freedom to Choose Insurance, marked at top right as “FINAL 2-6-14”;
- NPGE Doc#11 - Important Information about Procedures for Opening a New Account, marked at top right as “FINAL 2-6-14”;
- NPGE Doc#12 - Disbursement Request and Authorization, marked at top right as “FINAL 2-6-14”;
- NPGE Doc#13 - Corporate Resolution, marked at top right as “7-16-14 FINAL”;
- NPGE Doc#14 - Assignment of Rents (NPGE - Tract 2-A), marked at top right as “7-21-14 – 1815 hrs FINAL”;
- NPGE Doc#15 - Leasehold Mortgage, Security Agreement and Financing Statement, marked at top right as “7-21-14 FINAL”;
- NPDC Doc#1 - Commercial Security Agreement (NPDC Tracts 1-A & 2-A), marked at top right as “7-21-14 FINAL”;
- NPDC Doc#2 - Leasehold Mortgage, Security Agreement and Financing Statement (NPDC Tract 1-A and Tract 2-A), marked at top right as “7-21-14 FINAL”;
- NPDC Doc#3 - Assignment of Rents (NPDC Tract 1-A), marked at the top right as “7-16-14 draft”;
- NPDC Doc#4 - Assignment of Rents (NPDC Tract 2-A), marked at top right corner as “7-21-14 FINAL”;
- NPDC Doc#5 - Notice of Insurance Requirement, marked at top right as “7-16-14 final”;
- NPDC Doc#6 - Notice of Insurance Requirement, marked at top right as “FINAL 7-16-2014”;
- NPDC Doc#7 - Corporate Resolution to Grant Collateral/Guarantee, marked at top right as “7-16-14 final”;
- NPDC Doc#8 - Commercial Guaranty, marked at top right as “7-18-14 final”; and
- NPDC Doc#9 - Agreement to Provide Insurance, marked at top right as “7-16-14 final”.

The Loan Documents contain terms similar to other agreements the Office of General Counsel has already reviewed and analyzed. *See* www.migc.gov/Reading_Room/Management_Review_Letters.aspx. Applying the same analysis here, it is my opinion that the Loan 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 note, however, that the loan structure provides certain rights to the lender related to the Pueblo of Nambe’s trust lands. Because those provisions may implicate the United

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States' interests in lands it holds for the benefit of the Pueblo, we are referring the agreements to the Department of the Interior for their information.

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, this opinion shall not apply. Further, this opinion is limited to the Loan Documents listed above and does not include or extend to any other agreements or documents not submitted for review.

I anticipate that this letter will be posted to the NIGC's website. Prior to posting, the NIGC 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 25 U.S.C. § 552(b).

If you have any questions, please contact NIGC Staff Attorney Esther Dittler at (202) 420-9229.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Shepard", with a stylized flourish at the end.

Eric Shepard
Acting General Counsel

cc: Venus Prince, Deputy Solicitor – Indian Affairs.
Paula Hart, Director - Office of Indian Gaming