



April 7, 2022

VIA EMAIL

James E. Cohen, Esq.
Maier Pfeffer Kim Geary & Cohen, LLP
1970 Broadway, Suite 825
Oakland, CA 94612

**Re: Review of the 2022 Amended Credit Agreement
for the Federated Indians of Graton Rancheria**

Dear Mr. Cohen:

This letter responds to your April 6, 2022 request, on behalf of the Graton Economic Development Authority, an unincorporated governmental entity of the Federated Indians of Graton Rancheria, for the National Indian Gaming Commission, Office of General Counsel, to review a certain transaction document and to provide an opinion as to whether this transaction document is a management contract requiring the NIGC Chairman's approval pursuant to the Indian Gaming Regulatory Act of 1988. You have also asked for my opinion as to whether the transaction document violates IGRA's requirement that a tribe have the sole proprietary interest in its gaming operation.

In my review, I considered the following submission:

- *Credit Agreement among Graton Economic Development Authority, as Borrower, Federated Indians of Graton Rancheria, as the Tribe, and The Lenders Party Hereto, as Lenders, and Bank of America, N.A., as Administrative Agent and Collateral Agent, dated as of April [], 2022, Bank of America, N.A., as Lead Arranger and Bookrunner (marked at top right as "L&W DRAFT 4-4-2022," and at bottom left as "US-DOCS\128904835.15") (the "2022 Amended Credit Agreement"); and*
- Redlined version of the 2022 Amended Credit Agreement.

The 2022 Amended Credit Agreement contains terms similar to other agreements that OGC has previously reviewed and analyzed. Applying the same analysis here, it is my opinion that the 2022 Amended Credit Agreement is 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.

Letter to James E. Cohen, Esq.

Re: Review of the 2022 Amended Credit Agreement for the Federated Indians of Graton Rancheria

April 7, 2022

Page 2 of 2

It is my understanding that the 2022 Amended Credit Agreement is 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 2022 Amended Credit Agreement changes in any material manner prior to closing or is inconsistent with the assumptions made herein. Further, this opinion is limited to the aforementioned 2022 Amended Credit Agreement and does not include or extend to any other agreements not submitted for review. That said, the prior opinion expressed in the OGC declination letter issued to the Tribe on March 25, 2022, concerning those financing agreements, remains in effect.

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 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.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 Armando Acosta, Senior Attorney, at (202) 632-7003.

Sincerely,



Michael Hoenig
General Counsel

¹ See 25 C.F.R. § 517.7(c).

² 5 U.S.C. § 552(b)(4).

³ 139 S. Ct. 2356 (2019).

⁴ See 25 C.F.R. § 517.7(d).

⁵ *Id.*