January 5, 2009

Teri Poust
Holland & Knight LLP
633 West Fifth Street, 21st Floor
Los Angeles, CA 90071-2040
Fax: (213) 896-2450

Re: Request for Approval of San Manuel Band of Mission Indians Gaming Ordinance

Dear Ms. Poust:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the San Manuel Gaming Act, amended by the General Council of the San Manuel Band of Mission Indians (Tribe) by Resolution No. 2008-46 on September 9, 2008, and received by the NIGC on October 14, 2008.

This letter constitutes approval of the Gaming Act under the Indian Gaming Regulatory Act (IGRA). It is important to note, however, that approval is granted for gaming only on Indian lands, as defined in IGRA, over which the Tribe exercises jurisdiction.

Thank you for submitting the Gaming Act for my review and approval. The NIGC staff and I look forward to working with you on future gaming issues. If you have any questions regarding this matter please contact Esther Dittler, Staff Attorney, in the Office of General Counsel at 202-632-7003.

Sincerely,

Philip N. Hogen
Chairman

cc: James Ramos, Tribal Chairman
Manuel Band of Mission Indians

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October 13, 2008

OCT 14 2008

VIA UPS

Chairman Philip N. Hogen
National Indian Gaming Commission
1441 L. Street, NW
Suite 9100
Washington, DC 20005

Re: San Manuel Gaming Act of 1989

Dear Chairman Hogen:

On behalf of the San Manuel Band of Mission Indians, we submit for your approval the San Manuel Gaming Act of 1989, most recently amended on September 9, 2008. Also included is Resolution No. 2008-46, which documents approval of the same by the General Council of the San Manuel Band of Mission Indians.

Please contact me should you have any questions regarding this matter.

Sincerely yours,

HOLLAND & KNIGHT LLP

Teri Poust

Enclosures

cc: Armando T. Ramos, Chairman, San Manuel Gaming Commission
Erin Copeland, Legal Department, San Manuel Band of Mission Indians

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CERTIFICATE
OF
RESOLUTION

OCT 30 2008

GENERAL COUNCIL
OF THE
SAN MANUEL BAND OF MISSION INDIANS

RESOLUTION NO.: 2008-46

Amendment of San Manuel Gaming Act

WHEREAS, the San Manuel Band of Mission Indians is a federally recognized Indian tribe ("Tribe");

WHEREAS, the General Council is the recognized governing body of the San Manuel Band of Mission Indians, with the authority and responsibility to exercise the powers and privileges of self-government pursuant to the Tribe's Articles of Association, Article III and other tribal law;

WHEREAS, the General Council adopted the San Manuel Gaming Act (the "Act") on August 31, 1989;

WHEREAS, the Act was subsequently submitted to the National Indian Gaming Commission, Department of Interior ("BIA") for review and approval, and was deemed approved;

WHEREAS, the Act was subsequently amended, as approved by the Department of Interior in 2004;

WHEREAS, the Tribe's General Council has determined it is in the best interests of the tribal government to further amend the Act.

NOW THEREFORE, BE IT RESOLVED, that the Act is amended as reflected in the proposed version attached hereto and incorporated herein by reference.

26569 Community Center Drive • Highland, CA 92346 • Office: (909) 864-8933 • FAX: (909) 864-3370
P.O. Box 266 • Patton, CA 92369

CERTIFICATION

By a vote of the General Council of the San Manuel Band of Mission Indians at a duly noticed meeting at which a quorum was present, held at approximately 12:00 p.m. on September 9, 2008, at the General Council Conference Chambers on the San Manuel Indian Reservation, the above-recited resolution was passed by the General Council following a vote of 12 "for", 0 "against" and 3 abstentions.

DATED: October 8, 2008

James Ramos, Tribal Chairman

CHAPTER 7. THE SAN MANUEL GAMING ACT OF 1989.[1]

OCT 14 2008

SMTC 7.1 Title

This Chapter shall be known as the "SAN MANUEL GAMING ACT OF 1989, as amended."

SMTC 7.2 Findings and Policy

7.2.1 This Ordinance is adopted by the General Council of the San Manuel Band of Mission Indians ("Tribe"), a federally recognized Indian Tribe, pursuant to its authority under the Tribal Articles of Association; for the purpose of establishing the terms for gaming on Tribal Lands for Tribal governmental and charitable purposes, and to continue to develop and operate such gaming consistent with the findings herein and in conformity with the federal Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq. ("IGRA")), and regulations promulgated thereunder, and the Tribal-State Gaming Compact with the State of California ("Compact"). This Gaming Act and regulations promulgated hereunder shall constitute gaming regulations for the Tribe. Based on its experience and observations in connection with such gaming and its studies of similar experiences by other Indian tribes, the Tribe finds that tribally controlled gaming on its reservation is a valuable means of promoting Tribal economic development, self-sufficiency, employment, job training and strong Tribal government. The Tribe further finds that when regulated by the Tribe, such gaming can remain free from organized crime and other corrupting influences and can be conducted fairly and honestly by both the operators and the players.

7.2.2 The General Council finds that:

7.2.2.1 Gaming on its Tribal Lands is a valuable means of generating revenues needed to promote Tribal self-sufficiency, economic development, employment, job training, and a strong Tribal government, and to fund and ensure essential social programs and services;

7.2.2.2 The Tribe desires to conduct certain forms of gaming to provide needed revenues to the Tribe and to regulate and control such gaming in a manner that will protect the environment; the Tribal Lands; the health, security and general welfare of the Tribe; the patrons; and the community; and

7.2.2.3 The Tribe desires to manage and regulate such gaming as authorized under this Ordinance in a manner that will adequately address the interests and needs of the Tribe.

SMTC 7.3 Definitions

Unless specified otherwise, terms used herein shall have the same meaning as in IGRA, including but not limited to references to "Class I," "Class II," and "Class III" gaming. Terms shall have the following meanings:

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[1] Adopted by the General Council on August 31, 1989 as 89.02. Amended September 19, 1994; May 13, 1997; September 28, 1999; November 9, 1999; November 11, 2003; March 6, 2004; and September 9, 2008.

7.3.1 **"Applicable Law"** means IGRA and regulations promulgated thereunder, the Compact, this Gaming Act, and all other applicable laws and regulations promulgated under State, Federal, and Tribal law.

7.3.2 **"Applicant"** means an individual or entity that applies for a tribal gaming license.

7.3.3 **"Association"** means the association of tribal and state gaming regulators as established under the Compact, the membership of which comprises up to two representatives from each tribal gaming agency of those tribes with whom the State has a Compact under IGRA, and up to two delegates each from the State Division of Gambling Control and the State Gambling Control Commission.

7.3.4 **"Commissioner"** means a member of the San Manuel Gaming Commission.

7.3.5 **"Compact"** means any Tribal-State Gaming Compact, including amendments thereto, entered into by the Tribe pursuant to IGRA to govern the conduct of certain Class III gaming activities on Tribal Lands.

7.3.6 **"Gaming Act"** means the San Manuel Gaming Act of 1989, as amended.

7.3.7 **"Gaming Activities"** means any Class I, Class II, or Class III gaming activity authorized under this Gaming Act or under the jurisdiction of the Tribe.

7.3.8 **"Gaming Commission"** means the tribal governmental agency established by the Tribe under this Gaming Act to monitor Gaming Activities, investigate wrongdoing, conduct background investigations, issue licenses, and perform other duties as required for the regulation of gaming on the Reservation. For the purpose of conducting background investigations of and issuing licenses to the Commissioners and Gaming Commission employees, such persons shall be deemed to be Key Employees under this Gaming Act and shall be required to pass a background investigation and hold a valid gaming license consistent therewith.

7.3.9 **"Gaming Employee"** means any person who: (a) operates, maintains, repairs, assists in any Gaming Activity, or is in any way responsible for supervising such Gaming Activities, including persons who conduct, operate, account for, or supervise any such Gaming Activity; (b) is in a category under federal law, the Compact, or tribal gaming law requiring licensing; (c) is an employee of the Gaming Commission or of the Gaming Operation with access to confidential or proprietary information; (d) is a person whose employment duties require or authorize access to areas of the Gaming Facility that are not accessible to the public; or (e) is a person whose employment duties require or authorize access to confidential or proprietary information regarding the Gaming Facility where such person may have the ability to alter or manipulate such information for illicit or unauthorized purposes.

7.3.10 **"Gaming Enterprise"** or **"Gaming Operation"** means any gaming business, event, enterprise or activity conducted by or under the jurisdiction of the Tribe.

7.3.11 **"Gaming Facility"** means any building in which Class III gaming activities or gaming operations occur, or in which the business records, receipts, or other funds of the Class III gaming operation are maintained (but excluding offsite facilities primarily dedicated to

storage of those records, and financial institutions), and all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activities of the Tribe's Gaming Operation. Nothing in this Gaming Act prevents the conduct of Class II gaming (as defined under IGRA) in the Gaming Facility.

7.3.12 **"Gaming Resources"** means any goods or services provided to or used in connection with Gaming Activities, whether exclusively or otherwise, including, but not limited to, equipment, furniture, gambling devices and ancillary equipment, implements of Gaming Activities such as playing cards and dice, furniture designed primarily for Gaming Activities, maintenance or security equipment and services, gaming consulting services, and the like. The term shall not include professional accounting or legal services.

7.3.13 **"Gaming Resource Supplier"** or **"Gaming Contractor"** means any person or entity who, directly or indirectly, manufactures, distributes, supplies, vends, leases, or otherwise purveys Gaming Resources to the Tribe's Gaming Operation, Gaming Enterprise, or Gaming Facility. The Gaming Commission may exclude a purveyor of equipment or furniture that is not specifically designed for, and is distributed generally for use other than in connection with Gaming Activities, if the purveyor is not otherwise a Gaming Resource Supplier under the Compact, and the compensation received by the purveyor is not grossly disproportionate to the value of the goods or services provided, and the purveyor is not otherwise a person who exercises a significant influence over the Gaming Operation.

7.3.14 **"General Council"** means the governing body of the Tribe.

7.3.15 **"Key Employee"** means a person who performs one or more of the following functions: bingo caller; counting room supervisor; chief of security; custodian of gaming supplies or cash; floor manager; pit boss; dealer; croupier; approver of credit; or custodian of gaming devices, including those persons with access to cash and accounting records within such devices. If not otherwise included, any other person whose total cash compensation is in excess of $50,000 per year, and the four most highly compensated persons in the Gaming Operation, are included in the definition of Key Employee. Key Employee shall also include any employee considered a Key Employee under criteria established by the State and the Tribe under the Compact, as well as any person whose employment duties require or authorize access to confidential or proprietary information regarding the Gaming Facility where such person may have the ability to alter or manipulate such information for illicit or unauthorized purposes. At the discretion of the Gaming Commission, other positions or persons may be included under the definition of Key Employee and are subject to the requirements thereof.

7.3.16 **"National Indian Gaming Commission"** or **"NIGC"** means the federal gaming commission established under IGRA.

7.3.17 **"Person"** means any natural person or entity, including but not limited to corporations, partnerships and trusts.

7.3.18 **"Primary Management Official"** means the person who has management responsibility for a management contract; any person who has authority to hire and fire employees or to set up working policy for the Gaming Operation; or the chief financial officer or

other person who has financial management responsibility. At the discretion of the Gaming Commission, other positions or persons may be included under and be subject to the requirements for Primary Management Officials.

7.3.19 **"Reservation"** or **"Tribal Lands"** means all lands under the jurisdiction and control of the Tribe, including those lands that satisfy the definition of "Indian lands" as set forth in IGRA.

7.3.20 **"State"** means the State of California.

7.3.21 **"State Gaming Agency"** means the entity authorized to investigate, approve, and regulate Class III gaming licenses pursuant to the Gambling Control Act (Chapter 5, commencing with section 19800, of Division 8 of the Business and Professions Code). If the State fails, under a Compact provision, to designate an agency authorized to investigate, approve, and regulate gaming licenses, any function otherwise assigned to the State Gaming Agency shall be assumed by the Gaming Commission until such time as the State establishes and designates such an agency.

7.3.22 **"Tribal Court"** means any court established by the Tribe under its Judicial Code to hear disputes, or if there is none, the General Council.

SMTC 7.4 Ownership of Gaming

The Tribe has the sole proprietary interest in and responsibility for the conduct of any Gaming Operation authorized by this Gaming Act.

SMTC 7.5 Gaming Commission

7.5.1 Establishment. The Tribe hereby establishes the San Manuel Gaming Commission to be composed of no more than three (3) Commissioners. One (1) Commissioner shall be a member of the San Manuel General Council and two (2) Commissioners shall be non-Tribal members. A Commissioner may not be an elected official of the Tribe, or employed in any Gaming Enterprise or by the Tribe in any other capacity, while serving as a Gaming Commissioner.

7.5.2 Standard of Professional Conduct. All Commissioners shall abide by the following standard of professional conduct: confidentiality, impartiality, fairness, and commitment to upholding the reputation of the Tribe for conducting Gaming Activities of the highest integrity and honesty.

7.5.3 Commission Positions. All Gaming Commissioner positions shall be considered to be full-time positions.

7.5.3.1 Elected Commissioner. One (1) Commissioner shall be a member of the San Manuel General Council. This Commissioner shall be elected by the General Council using the same process applicable to the election of Tribal officers. This elected Commissioner shall serve for a three (3) year term, which shall be determined from the date of election. This elected

Commissioner may serve for more than one term if reelected, and may serve past the expiration of any term until replaced or removed.

7.5.3.2 Appointed Commissioners. Two (2) Commissioners shall be non-Tribal members. These Commissioners shall be appointed by the Chairperson and confirmed by the General Council. These Commissioners may serve until they resign, or until they are replaced or removed.

7.5.3.3 Chairperson. It is the goal of the Tribe that the Chairperson be a member of the San Manuel General Council. If, however, no member of the San Manuel General Council seeks the position of elected Commissioner, the appointed Commissioner who has served the longest term as a Commissioner shall assume the position of Chairperson. In the event the elected Commissioner has less than five (5) years experience with the Gaming Commission, or alternatively less than five (5) years of combined gaming management and regulatory experience, the appointed Commissioner who has served the longest term as a Commissioner shall assume the position of Chairperson. Further, if the Chairperson position becomes vacant and stays vacant for more than ninety (90) days, the appointed Commissioner who has served the longest term as a Commissioner shall assume the position of Chairperson. Any time an appointed Commissioner assumes the position of Chairperson, they shall remain Chairperson until they resign, or until they are replaced or removed.

7.5.3.4 Secretary/Treasurer. At the discretion of the Gaming Commission, a member of the San Manuel Gaming Commission staff may be designated as Secretary/Treasurer to the Gaming Commission. The Secretary/Treasurer to the Commission shall be responsible for disbursement of Gaming Commission funds in accordance with Tribal governmental agency policies and the Gaming Commission budget. The Commissioners and Secretary/Treasurer shall approve payment of all goods and services for the Gaming Commission. All funds shall be paid out from Tribal accounts for the Gaming Commission expenditures and charged against the Gaming Commission's approved budget. The Secretary/Treasurer to the Commission shall also ensure that minutes of all Gaming Commission meetings and all official actions taken by the Gaming Commission are taken and transcribed within five (5) business days after such meeting or action, and that the written records thereof are maintained in accordance with applicable document retention policies.

7.5.3.5 Deputy Commissioners. At the discretion of the Gaming Commission, two (2) members of the San Manuel Gaming Commission staff may be designated as Deputy Commissioners. Deputy Commissioners serve at the pleasure of the Gaming Commission and their appointment shall be noticed to the Business Committee. The Deputy Commissioners shall assume certain delegated duties and responsibilities as determined by the Gaming Commission.

7.5.4 Suitability Standards. Gaming Commissioners, Deputy Commissioners and Gaming Commission employees must meet or exceed the qualifications established under this Gaming Act and the Compact. For the purpose of conducting background investigations of and issuing licenses to the Commissioners, Deputy Commissioners and Gaming Commission employees, such persons shall be deemed to be Key Employees under this Gaming Act and shall be required to pass a background investigation and hold a valid gaming license consistent therewith, including a review of financial, criminal, and employment history, contact with references, and

all other suitability requirements for certification or licensing by the State or the Tribal Gaming Commission.

7.5.5 Background Investigation. Background investigations of Gaming Commissioners, Deputy Commissioners, Tribal member Commission employees and other Gaming Commission employees, as designated by the Gaming Commission, shall be conducted by an independent investigator or an investigator appointed by the Gaming Commission under the direction of the Tribe's attorney and the Gaming Commissioners. The investigator shall conduct an investigation sufficient to make a determination of eligibility as required under this Act and other applicable law. This shall include verification of information submitted by the applicant. In conducting the background investigation, the investigator and the Gaming Commissioners shall maintain as confidential the identity of each person interviewed in the course of the investigation. The investigator shall document all potential problem areas noted and any disqualifying information. The attorney and/or Gaming Commissioners shall keep the details of the investigation confidential, but the attorney may confer with the investigator or any other person experienced in conducting or evaluating background investigations provided such other person agrees to maintain the confidentiality of the information obtained about the applicant.

7.5.5.1 The attorney and/or Gaming Commissioners shall make a determination as to whether the suitability standards contained within this Gaming Act have been met, and if so, shall certify that finding in writing to the Business Committee.

7.5.5.2 In the event the attorney and/or Gaming Commissioners determines there is any reason to believe the applicant may not meet the suitability standards contained within this Gaming Act, the attorney and/or Gaming Commissioners shall so inform the applicant of that determination on a confidential basis. The applicant shall have three (3) business days in which to respond, by providing additional information or other reasons why the applicant should be deemed suitable. If the attorney and/or Gaming Commissioners still believes the applicant is unsuitable, the attorney and/or Gaming Commissioners shall so notify the applicant in writing, who shall have three (3) business days in which to either withdraw from consideration (in which case the file shall be sealed) or request that the application be reviewed further by the attorney and/or the Business Committee. In the event of such review, only those items that the attorney or Gaming Commissioners believed rendered the applicant unsuitable shall be revealed to the Business Committee or attorney by the Gaming Commission and/or attorney. The applicant can request that any additional information obtained by the attorney be submitted to the Business Committee, and may provide such further information as the Business Committee shall permit. Within ten (10) days after closing its own review and investigation of such applicant, the Business Committee or attorney and/or the Gaming Commissioners shall render a final decision as to the applicant's suitability. In the event of issuance of a finding of suitability, the Gaming Commission shall issue a Class A license to the applicant. Appeals from the Business Committee decision shall follow the same procedures as appeals from other license denials.

7.5.5.3 Background investigations of all Gaming Commission employees that are not conducted by an independent or appointed investigator as provided for above shall be conducted by the appropriate Gaming Commission staff under the direction of the Gaming Commissioners, unless otherwise provided for by the Gaming Commission.

7.5.6 Compensation. The salaries for Commissioners shall be approved by the Business Committee as part of the annual budget, in conjunction with a recommendation of Human Resources. Subject to a budget to be approved on an annual basis by the General Council, Commissioners shall be reimbursed for expenses incurred in connection with the performance of their duties as Commissioners and in accordance with the budget. Policies with respect to reimbursement of expenses shall be the same as those applicable to other Tribal government employees. Any Commissioner employed on a full-time basis shall be eligible for the same fringe benefits as such other full-time Tribal government employees.

7.5.7 Removal. Commissioners may only be removed from office before the expiration of their term by the General Council for neglect of duty, malfeasance or other good cause shown. Removal for cause shall only be under procedures applicable to removal of an elected Tribal official.

7.5.8 Post-Commission Restriction. Unless otherwise provided by the Gaming Commission, Gaming Commissioners and Commission employees shall be precluded from consulting or employment in any position with the Tribe's Gaming Activities for a period of no less than two (2) years from their date of termination at the Gaming Commission.

7.5.9 Meetings. Meetings of the Gaming Commission may be of the following type:

7.5.9.1 Official Meetings. Official meetings of the Gaming Commission shall be held at least every other month and shall be called and attended by at least two (2) Gaming Commissioners. Notice of official meetings shall be given in writing to each Gaming Commissioner at least five (5) business days prior to such meeting. Such notice shall be determined to be valid only when written response, whether via electronic mail or some other written medium, is received from each Commissioner. When present, the Chairperson shall preside over all official meetings of the Gaming Commission. All Commissioners shall be notified of the outcome of all official meetings.

7.5.9.2 Other Meetings. Other meetings may be called at any time, by any means, with unanimous consent of the Gaming Commissioners.

7.5.9.3 Executive Session. All Gaming Commission discussions, deliberations, and votes taken regarding specific license applications and related background investigations, or any other investigations, and any other matter the Gaming Commission deems must be kept confidential in order to preserve the integrity of the Gaming Enterprise or Tribe, or to protect the privacy of the applicant, shall be held in executive session.

7.5.9.4 Quorum. Two (2) members of the Gaming Commission shall constitute a quorum for the purpose of conducting Commission business, provided that nothing herein shall preclude the Chairperson of the Gaming Commission from conducting Commission business if notice of the meeting has been provided in a timely manner reasonably calculated to provide proper notice to all Commissioners, and no Commissioner has objected to the meeting.

7.5.9.5 Voting. All actions of the Gaming Commission shall be taken by majority vote of Commissioners present. The Commission Chairperson may vote on any issue.

7.5.9.6 Conflict of Interest. If any Commissioner has a conflict of interest in investigating, hearing or deciding a matter to come before the Gaming Commission, such as matters involving a member of the Commissioner's household or immediate family (parent, sibling, child, or spouse), that Commissioner shall recuse himself or herself for that matter. When only the Commissioner with a possible conflict is available to sit on the matter before the Gaming Commission, that Commissioner shall recuse himself or herself and request that the Business Committee serve as the Gaming Commission only for the purposes of that matter; with the exception of licensing matters, in which case the investigation shall be conducted under the direction of the Tribe's attorney through the process established in 7.5.5 of this Gaming Act. All such matters shall be handled fairly, objectively and impartially.

7.5.10 Personnel and Administrative Policies. The Gaming Commission shall be deemed to be an agency of the Tribal government and as such shall be subject to the personnel and other governmental administrative policies of the Tribal government, as the General Council shall determine from time to time. In the absence of specific personnel policies, those affecting management level employees of the Gaming Enterprise shall be applied to the operation of the Gaming Commission. The Business Committee shall, in good faith, consider and approve any exceptions necessary to tailor such policies to the Gaming Commission. Any Commissioner employed on a full-time basis shall agree to be employed in accordance and consistent with policies set for other Tribal government employees and to strictly abide by Gaming Commission oaths of confidentiality and professionalism in the discharge of their duties.

7.5.11 Gaming Commission Independence. Notwithstanding the fact that the Gaming Commission is a Tribal governmental agency and is accountable to the Business Committee, on behalf of the General Council, for its administration, in order to maintain independence and ensure the highest level of integrity, the Business Committee shall not interfere with Gaming Commission business or compromise the Gaming Commission's ability to perform its duties and responsibilities as provided for in this Act. The decisions of the Gaming Commission regarding licensing, suitability and compliance with Applicable Law shall be within the exclusive province of the Gaming Commission, except that the Business Committee may review any allegation that the Gaming Commission has exceeded its authority under this Gaming Act and if it deems the allegation to be true, shall refer the allegation to the General Council for action, which may include removal of a Commissioner for cause.

7.5.12 Gaming Commission Funding. The Gaming Commission shall be funded through an annual appropriation by the General Council and such additional funding actions as the General Council shall deem necessary. Unjust pressure shall not be placed upon the Gaming Commission through the budgeting process. After meeting and conferring with the General Council about such appropriation, the Gaming Commission shall prepare a budget. Such budget shall be submitted to the Business Committee no later than sixty (60) days before the end of each Tribal fiscal year. The Business Committee shall, in good faith, act to approve the budget. The Business Committee may modify the budget where such modification is needed to properly reflect the intent of the General Council. Within five (5) days after approval of the budget, funds from the Tribe's treasury shall be appropriated for the Gaming Commission's approved budget, except that at any time the General Council may prescribe other schedules for disbursing such funds.

7.5.12.1 Financial Reports. The Gaming Commission shall maintain its accounts, books and records, including records of all income and expenditures, in accordance with generally accepted accounting principles and consistent with Tribal governmental policies regarding management of funds and records. A financial report shall be rendered by the Gaming Commission to the General Council at least quarterly. All expenditures shall stay within ten percent (10%) of the approved budget.

7.5.12.2 Annual Reports. On or before April 30th of each year, the Gaming Commission shall provide to the Business Committee an Annual Report summarizing its activities during the prior twelve (12) month period ending on December 31, and accounting for all receipts and disbursements, a copy of which shall be provided by the Business Committee to any Tribal member upon his or her request.

SMTC 7.6 Powers and Duties

The Gaming Commission shall have the power, duty, and primary responsibility to carry out the Tribe's regulatory responsibilities under federal or tribal law and any applicable Compact; to enforce those requirements; and to protect the integrity of the Gaming Activities and the reputation of the Tribe and the Gaming Operation under provisions to include the following:

7.6.1 Conduct on-site gaming regulation and control, and inspect, test internal control systems, audit, examine, and monitor the Gaming Facility; prepare reports and monitor compliance, including the authority to demand access to and inspect, examine, photocopy and audit all papers, books and records related to the Gaming Facility or Gaming Activities.

7.6.2 Investigate any suspicion of wrongdoing in connection with the Gaming Facility or Gaming Operation, or related to any Gaming Activity or licensee, including potential licensing or internal control violations, or interference with Gaming Commission operations, and require correction of violations as the Gaming Commission deems necessary, including establishing and imposing fines or other sanctions against licensees or other persons who interfere with or violate the Tribe's gaming regulatory requirements under applicable federal or tribal law or the Compact, and by notification to applicable regulatory authorities as deemed necessary for violations not corrected in a timely manner.

7.6.3 Conduct, or cause to be conducted, such investigations as may be necessary to determine compliance with applicable laws, including this Gaming Act, or any contracts, agreements, goods, services, events, incidents, or other matters related to Gaming Activities.

7.6.4 Conduct, or cause to be conducted, background investigations regarding any person or entity in any way connected with any Gaming Activity and/or the Gaming Operation, and issue licenses and identification badges to, at minimum, all Key Employees, Primary Management Officials, and Gaming Resource Suppliers according to requirements at least as stringent as those established in 25 C.F.R. Parts 556 and 558; provided no Commissioner shall provide any personal endorsement, recommendation or other support for an applicant, in accordance with this Gaming Act and the Compact.

7.6.5 Administer oaths or affirmations to witnesses appearing before the Gaming Commission; hold hearings, sit and act at such times and places, summon persons on Tribal Lands to attend and testify at such hearings, take testimony, and receive such evidence as the Gaming Commission deems relevant to fulfill its duties.

7.6.6 Execute agreements necessary to receive comprehensive criminal history and other background investigation information from other jurisdictions and sources.

7.6.7 Implement and administer a system for investigating, licensing (including license issuance, renewal, denial, and revocation), and monitoring for the Gaming Facility, employees, Gaming Contractors, vendors, suppliers, investors, and others connected with Gaming Activities, as described below, including the licensing of Gaming Facilities, individuals and entities as required under this Gaming Act, IGRA, or any applicable Compact.

7.6.8 Ensure, monitor, and direct inspections of Gaming Facilities by qualified building and safety experts in order to comply with the Tribe's building and safety codes; provide reports as requested to the State if applicable under the Compact; review reports; and issue a certificate of occupancy to the Gaming Facility.

7.6.9 Provide a copy of each Gaming Facility license and renewals thereof to the NIGC, including, at minimum: the Tribe's name; name and address of the Gaming Facility; type of gaming allowed; effective date of license; the signature of the tribal official responsible for issuing the license; and the name and phone number of the Gaming Commission.

7.6.10 Hear and resolve disputes against the Gaming Facility or Gaming Operation, in accordance with procedures established in this Gaming Act and the Tort Liability Ordinance, consistent with the Compact.

7.6.11 Hire staff and support services as deemed necessary, subject to the Gaming Commission budget approved by the Business Committee.

7.6.12 To the extent required, comply with any reporting requirements established under this Gaming Act, the Compact, IGRA and regulations promulgated thereunder, and other applicable law.

7.6.13 Develop necessary documentation and protocols, and establish joint cooperative working relationships with federal, state, and local jurisdictions as necessary to assist in ensuring the effective regulation of the Tribe's Gaming Activities.

7.6.14 Implement appropriate rules, regulations, and procedures to ensure the effective enforcement of the provisions of this Gaming Act, including but not limited to:

7.6.14.1 Protect the physical safety of gaming patrons, employees, and others in the Gaming Facility;

7.6.14.2 Ensure the physical safeguarding of assets transported to, within, and from the Gaming Facility;

7.6.14.3 Prevent illegal activity in the Gaming Facility or Gaming Operation through:

7.6.14.3.1 Maintenance of employee procedures and a surveillance system in accordance with industry standards;

7.6.14.3.2 Maintenance of detailed and permanent records of all occurrences and incidents in the Gaming Facility that deviate from normal operating policies and procedures;

7.6.14.3.3 Establishment of employee procedures to detect theft, cheating and fraud;

7.6.14.3.4 Development of an exclusion policy that includes a right to a hearing and requires maintenance of a list of persons barred from the Gaming Facility;

7.6.14.3.5 Conduct of an annual CPA audit;

7.6.14.3.6 Approval of all game rules and regulations;

7.6.14.3.7 Establish and impose license fees, sanctions, fines, and conditions as appropriate under applicable law;

7.6.14.3.8 Investigate and ensure compliance with any requirements for tribal ownership, management, and control of the Gaming Facility and Gaming Operation, as set forth in applicable law;

7.6.14.3.9 Investigate and ensure compliance with age restrictions for patrons including provisions prohibiting minors in the Gaming Facility and age limits on service of alcoholic beverages as provided under applicable law;

7.6.14.3.10 Carry out any requirements under tribal or federal law or Compact for the protection of the health and safety of Gaming Facility patrons, guests, and employees, including requirements that the Gaming Facilities meet building and safety codes duly adopted by the Tribe; and

7.6.14.3.11 Approval of Gaming Facility floor plans, closed-circuit television system, and cashier's cage, minimum staffing and supervisory requirements, and technical standards for gaming device operations.

7.6.15 Ensure gaming devices are not transported to or from the Tribal Lands except in accordance with procedures established by an agreement between the Gaming Commission and the State Gaming Agency. The agreement shall require at least ten (10) days notice to the county sheriff, and transportation only to specific destinations for specific purposes as established in the agreement and the Compact.

7.6.16 Promulgate rules for each Class I, Class II or Class III game allowed under this Gaming Act to govern the conduct of such games.

7.6.17 Comply with a tribal conflict of interest policy to ensure that Commissioners are free from corruption, undue influence, compromise, and conflicting interests in the conduct of their business.

7.6.18 For Class II gaming, adopt, approve, and enforce gaming regulatory standards no less stringent than the Minimum Internal Control Standards promulgated by the National Indian Gaming Commission. For Class III gaming, adopt, approve, and enforce gaming regulatory standards no less stringent than the Minimum Internal Control Standards promulgated by the National Indian Gaming Commission as they existed on October 19, 2006, or as required under the Compact.

7.6.19 Carry out such other duties with respect to the regulation of Gaming Activities on Tribal Lands as required under Applicable Law, including this Gaming Act, IGRA, and the Compact, and as the General Council shall direct.

7.6.20 Carry out such other duties as assigned by the Business Committee of the Tribe, regardless of whether such duties relate to the regulation of Gaming Activities on Tribal Lands. Such assignment shall be made through appropriate policy or procedure in order to capitalize upon certain expertise of the Gaming Commission.

SMTC 7.7 Enforcement

In the event it is determined that a licensee or the Gaming Enterprise has violated Applicable Law, including any internal control procedures or policy of the Gaming Enterprise, a written report of such incident shall immediately be made to the Gaming Commission. The Commission shall then determine what action should be taken, if any. If action is required, the Commission shall issue a citation to the Gaming Enterprise, notifying it of the specific violation(s) or issues, measures which must be taken for correction, and a reasonable time limit in view of all the circumstances in which such action must be taken. Copies of any such citation shall simultaneously be served on the Business Committee of the Tribe. The Commission may enforce such citations by: (a) suspending or revoking the licenses of any persons found to have violated Applicable Law; or (b) such lesser penalty or other remedy as the Commission shall determine, including the imposition of fines or sanctions. Nothing herein shall prevent or prohibit the Gaming Commission from seeking compliance assistance from local, federal, or state gaming or law enforcement agencies, the Bureau of Indian Affairs, or the National Indian Gaming Commission, particularly but not limited to any instance in which the Gaming Enterprise and the General Council have failed to correct a violation of Applicable Law.

SMTC 7.8 Permitted Gaming Activities; Regulation of Gaming Activities

7.8.1 Unauthorized Gaming Prohibited. All Gaming Activities on Tribal Lands are prohibited except as expressly permitted under this Gaming Act.

7.8.1.1 Class I Gaming. Class I Gaming Activities are hereby permitted to the extent consistent with Tribal custom and practice and provided the General Council is given at least seven (7) days prior notice in writing of any intention to engage in such gaming. The General Council may prohibit any conduct that is claimed to be Class I gaming if the Council finds that

such conduct is not in accordance with Tribal customs or practices or violates IGRA or any other law.

7.8.1.2 Class II and Class III Gaming. Class II and Class III gaming on Tribal Lands are hereby authorized as permitted under Applicable Law, provided the Tribe has the sole proprietary interest in and responsibility for the conduct of any Gaming Operation. The Tribe also reserves the right to contract with and license a person or entity to own, operate, or manage the Gaming Operation pursuant to the provisions of IGRA or as otherwise permitted by law. Nothing herein shall prohibit the Tribe from engaging the services of non-tribal persons as employees or engaging any person or entity to assist the Tribe in the management of a Gaming Activity pursuant to a management agreement entered into under the provisions of IGRA or any other applicable law. Class III gaming shall be conducted in accordance with a Compact, or any alternative thereto as provided by IGRA.

SMTC 7.9 Use of Gaming Revenues

7.9.1 Except as provided for under the terms of an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, all net revenues generated from any Class II or Class III Gaming Activity are the property of the Tribe. Net revenues from Class II and Class III Gaming Activities shall only be used for the following purposes:

7.9.1.1 To fund tribal government operations or programs;

7.9.1.2 To provide for the general welfare of the Tribe and its members;

7.9.1.3 To promote economic development for the Tribe;

7.9.1.4 To donate to charitable purposes; or

7.9.1.5 To help fund operations of local governmental agencies.

7.9.2 Except for rights to per capita payments, if any, or as set forth below, no Tribal member shall have any interest or expectation in any funds generated by any Gaming Activity. All such funds are deemed Tribal funds only and are and shall remain the property of the Tribe until disbursed, if at all, from the general treasury. The General Council shall retain the sole discretion as to how such funds are utilized, and once becoming part of the treasury such funds shall lose any identity as gaming revenues except to the extent necessary to identify them as such for accounting purposes or to comply with applicable law. Notwithstanding anything herein to the contrary, if the Tribe elects at any time to make per capita payments to the members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior under 25 U.S.C. § 2710(b)(3). Payments out of general treasury funds to tribal members under other tribal programs, including those relating to health, welfare, education, elderly care, and housing, shall not be deemed to be "per capita" payments when such funds are paid from the Tribe's general treasury.

SMTC 7.10 Operation of Gaming Establishments

7.10.1 Gaming Facility License. Except to the extent authorized by an agreement pursuant to the provisions of IGRA or as otherwise permitted by law, Gaming Activities shall only be conducted in tribally owned, operated and licensed Gaming Facilities pursuant to the provisions of this Gaming Act, the Compact and other applicable law. Such activities shall be conducted in accordance with the terms and conditions of the license issued to the Gaming Facility by the Gaming Commission prior to the conduct of any Gaming Activities therein.

7.10.1.1 Before Gaming Activities can be conducted in any Gaming Facility, the Gaming Commission shall inspect and license each Gaming Facility in accordance with this Gaming Act, the Compact and other applicable law. The Gaming Commission shall also determine and certify that the Gaming Facility and any new Gaming Facility construction meets the Tribe's building and safety codes, and any applicable federal or Compact requirements, and issue a certificate of occupancy to the Gaming Facility as required under the Compact.

7.10.1.2 The Gaming Facility license shall identify: the name and address of the Gaming Facility; type of gaming allowed; effective date of the license; name and telephone number of the Gaming Commission; and such other matters as the Gaming Commission may deem necessary to the conduct of Gaming Activities therein, or as may be required under a Compact or other applicable law.

7.10.2 Protection of Environment and Public. The construction and maintenance of any Gaming Facility, and the operation of Gaming Activities therein, shall be conducted in a manner which adequately protects the environment and the public health and safety, in compliance with any standards required under tribal and federal law, and the Compact.

7.10.3 Dispute Resolution. Patrons who have complaints against the Gaming Facility or Gaming Operation shall have the right to remedies provided in the Tribe's Tort Liability Ordinance.

SMTC 7.11 Audits

7.11.1 Annual Audit. The Gaming Commission shall ensure the engagement of a recognized independent accounting firm to conduct an annual audit of the Tribe's Class II and Class III Gaming Operations.

7.11.2 Contract Review and Audit. Each gaming related contract for supplies, services, or concessions that results in purchases of more than $25,000 annually (except contracts for professional legal or accounting services) relating to Class II or Class III gaming on the Tribal Lands shall be included in the independent audits. At least three (3) bids shall be required before any contract may be executed for goods or services in connection with any Gaming Activity for an amount in excess of $25,000 or to be performed over a period of more than twenty (20) days. The General Council may waive the requirement of three (3) bids upon good cause shown. All proposals for bids as well as all bids received may be reviewed at the discretion of the Gaming Commission. The Gaming Commission shall receive a copy of all Gaming-Related Contracts for

an amount in excess of $10,000 for filing and possible review. To the extent possible, the Tribe will approve the lowest responsive and qualified bid.

7.11.3 Reporting Audit Results. The Tribe shall make available the results of each annual audit to the Tribe's General Council within thirty (30) days of completion of the audit. The Tribe shall provide audit results to the NIGC to the extent required and as otherwise required under applicable law.

SMTC 7.12 Gaming Licenses

7.12.1 Licensing Procedure. The Tribe's Gaming Licensing procedure shall be administered through the Gaming Commission. The program shall be an investigative licensing process under which all applicants for Class II and Class III gaming licenses are evaluated against the standards set forth in, and subject to, the following applicable laws:

7.12.1.1 The Gaming Act and any gaming regulations promulgated thereunder;

7.12.1.2 IGRA and NIGC regulations;

7.12.1.3 Compact requirements, to the extent applicable; and

7.12.1.4 Any other applicable tribal, federal, or state laws.

7.12.2 Licensing Policy and Requirements. It is the policy of the Tribe that all Gaming Activities be licensed and controlled so as to protect the morals, good order and welfare of tribal members and other persons on Tribal Lands, and to preserve the honesty, fairness and integrity of such Gaming Activities. Accordingly, no person shall engage in any Class II or Class III Gaming Activities on Tribal Lands without a valid license issued by the Gaming Commission.

7.12.3 Gaming License is a Privilege. Any gaming license or finding of suitability issued by the Gaming Commission shall be deemed a privilege, and is subject to suspension or revocation at any time. No license or license renewal shall be issued that would place the Tribe in violation of Applicable Law. A gaming license or finding of suitability is subject to renewal at least every two (2) years.

7.12.4 Burden on Applicant. The burden of proving an applicant's qualifications to receive a license hereunder is at all times on the applicant. Applicants must accept any risk of adverse public notice, embarrassment or other action that may result from the application process and expressly waive any claim for damages as a result thereof.

7.12.5 Applicant Claim of Privilege. An applicant may claim any privilege afforded by law in connection with a gaming license application or investigation, but a claim of privilege with respect to any testimony or evidence pertaining thereto may constitute sufficient grounds for denial, suspension or revocation.

7.12.6 Release of Information. Persons applying for a license shall agree to release all information necessary in order for the Gaming Commission and any applicable federal or state entity to complete their suitability determination. Applicants must update all such information

promptly on an on-going basis, and to furnish such information as may be required by the State Gaming Agency, or such other governmental agency as may be required by law.

7.12.7 Types of Licenses.

7.12.7.1 Class A License. Before permitting any person to become associated with any Gaming Activity as an investor or other person owning or controlling 10% or more interest in any management entity, or any Primary Management Official, Key Employee, a gaming related position designated by the Gaming Commission as requiring a Class A license, closely associated independent contractor, or other individual or entity with influence over the management or operation of the gaming, or a Gaming Employee, such person shall obtain a Class A license. The Gaming Commission shall conduct or cause to be conducted a background investigation to determine if such person has:

7.12.7.1.1 Any criminal record or any reputation, prior activities, habits or associations which might pose a threat to the public interest or to the effective regulation of gaming; or

7.12.7.1.2 Anything else in his/her background that might create or enhance the dangers of unsuitable, unfair, or illegal practices, methods and activities in the conduct of gaming.

7.12.7.1.3 Those who at any time do not meet the above qualifications shall be denied a Class A license, or in the case of an existing license, the license may be revoked.

7.12.7.2 Class B License. Persons not identified as requiring a Class A License, but whom are to be employed at a Gaming Facility on Tribal Lands in another capacity, such as in non-gaming related activities, shall be required to obtain no less than a Class B license from the Gaming Commission. Such persons must establish that they have not been convicted of certain crimes or engaged in any activity which the Gaming Commission in its sole discretion deems to render such person a danger to the safety or integrity of the Gaming Activities, or to the safety and security of the Tribe, property of the Tribe, any Tribal member, any Gaming Employee or patron, or the public.

7.12.7.3 Class C License. Minors employed in non-gaming activities at the Reservation may be issued a Class C license, provided that such minors are not deemed by the Gaming Commission to pose any threat to the safety or integrity of Gaming Activities or the safety or property of the Tribe, any Tribal member, any Gaming Employee or patron, or the public. Such license shall be valid for no more than two (2) years. Minors shall not be employed as dealers or otherwise to operate or supervise the Gaming Activities, or to serve liquor.

7.12.7.4 Gaming Resource Supplier. Gaming Resource Suppliers must meet all tribal and state licensing and suitability requirements. Any Gaming Resource Supplier who, directly or indirectly, provides, has provided, or is deemed likely to provide at least twenty-five thousand ($25,000) in Gaming Resources in any 12-month period, or who has received at least twenty-five thousand dollars ($25,000) in any consecutive 12-month period within the 24-month period immediately preceding application, shall be licensed by the Gaming Commission prior to the sale, lease, or distribution, or further sale, lease, or distribution, of any such Gaming Resources to or in connection with the Tribe's Gaming Operation or Gaming Facility. The Gaming

Resource Supplier license must be renewed at least every two (2) years. The Tribe shall not enter into any contract or agreement that would require licensing if the Gaming Resource Supplier has been denied a license or is deemed unsuitable, or the license or suitability determination has expired without renewal.

7.12.7.5 Union License. Any labor union, including its management and representatives, seeking to represent any Gaming Employees must first apply for and be deemed suitable to obtain a license under standards and licensing requirements established by the Gaming Commission.

7.12.7.6 Vendor License. Vendors providing other goods or services, and those providing gaming related goods or services valued at less than $25,000 in a 12-month period, may also be required to obtain a license from the Gaming Commission prior to doing business with the Tribe's Gaming Operation. Vendors who are deemed not to be Gaming Resource Suppliers or who provide only non-gaming related goods or services to the Tribal Gaming Operation shall, at minimum, complete a short form application and qualify for a vendor license issued by the Gaming Commission. Such license must be renewed at least every two (2) years and the Gaming Commission may require additional information or licensing at any time.

7.12.7.7 Temporary or Provisional Licenses. Pending completion of an investigation for a license, the Gaming Commission may issue a temporary or provisional license of no more than ninety (90) days duration if, in its sole discretion, it deems such issuance appropriate, and may grant an extension of such a license if necessary to complete the investigation or to obtain the results from fingerprint cards. Such licenses shall permit the licensee to engage in such activities pursuant to such terms and conditions as the Gaming Commission may specify. Temporary or provisional licenses shall expire ninety (90) days from date of issuance, upon issuance of a regular license, or until a specified expiration date.

7.12.8 State Gaming Agency. Class III Gaming Employees, Gaming Resource Suppliers, gaming management and investors may further be subject to State Gaming Agency investigation and suitability requirements, including issuance of a license or certification of suitability, under the Compact.

7.12.9 Drug and/or Alcohol Testing. The Gaming Commission reserves the right to require drug and/or alcohol testing for any license applicant or licensees at any time.

7.12.10 License Investigations. The Gaming Commission may employ all reasonable means, including engaging outside services and investigators and holding hearings, to acquire the information necessary to determine whether or not a license should be issued. Applicants shall agree to release all information necessary in order for the Gaming Commission to achieve its goals under this Gaming Act and to furnish such information to the NIGC, the State Gaming Agency, or other agencies as may be required by Applicable Law.

7.12.11 License Renewal. All licenses shall be subject to renewal at least every two (2) years, and more frequently if so required by the Gaming Commission or other applicable law. Such licenses may be revoked or suspended upon the occurrence of any act which, if known during the application process, would have tended to disqualify such person or entity for such a license.

7.12.12 License Fees. Unless specifically waived by the Gaming Commission, all persons applying for a license shall be required to pay all applicable license fees and costs when due, including a reasonable deposit for costs that may be incurred in connection with the license application. Estimates of licensing costs will be provided to applicants upon reasonable request. All fees and costs must be received by the Gaming Commission prior to issuance of the license, unless the Tribe or the Gaming Operation has agreed to reimburse the Gaming Commission directly for all or part of such fees and costs.

7.12.13 Standards. All persons engaged by or associated with any Gaming Activity on Tribal Lands shall conduct themselves with honesty, integrity, and with such decorum and manners as necessary to reflect positively on the Tribe, its members and the Gaming Activities. Any failure to abide by such standards, or any violation of a rule, regulation, law, custom or tradition of the Tribe, the Gaming Commission, or the Gaming Operation, or with the terms or conditions of the license, may be grounds for immediate suspension or revocation of any license issued hereunder.

7.12.14 Background Investigations.

7.12.14.1 The Gaming Commission shall request from each Primary Management Official, Key Employee, and any other applicant for a Class A license, unless provided otherwise by the Gaming Commission consistent with Applicable Law, all of the information specified in subsections 7.12.14.1.1 through 7.12.14.1.14 below, as well as any other information required on the gaming license application. The Gaming Commission reserves the right, at any time, to request additional information during or subsequent to any background investigation.

7.12.14.1.1 Full name, other names used (oral or written), social security number(s), date of birth, place of birth, citizenship, gender, all languages (spoken or written);

7.12.14.1.2 Currently and for at least the previous ten (10) years: business and employment positions held, ownership interests in those businesses, business and residence addresses and drivers license number(s);

7.12.14.1.3 Names and current addresses of at least three (3) personal references (who are not related to or living in the same household with applicant), including one personal reference who was acquainted with the applicant during each period of residence as listed under subsection 7.12.14.1.2 above;

7.12.14.1.4 Current business and residence telephone numbers;

7.12.14.1.5 A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

7.12.14.1.6 A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

7.12.14.1.7 Name and address of any licensing or regulatory agency with which the person has ever filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

7.12.14.1.8 For each felony for which there is an on-going prosecution or a conviction: the charge, the name and address of the court involved, and the date and disposition, if any, of the case;

7.12.14.1.9 For each misdemeanor conviction or on-going misdemeanor prosecution (excluding minor traffic violations) within ten (10) years of the date of the application: the name and address of the court involved, and the date and disposition, if any, of the case;

7.12.14.1.10 For each criminal charge (excluding minor traffic charges) that you have ever received, whether or not there is or was a conviction, if such criminal charge is within ten (10) years of the date of the application and is not otherwise listed above pursuant to subsections 7.12.14.1.8 or 7.12.14.1.9 above: the criminal charge, the name and address of the court involved and the date and disposition, if any, of the case;

7.12.14.1.11 Name and address of any licensing or regulatory agency (federal, tribal, state, local or foreign) with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

7.12.14.1.l2 Current photograph;

7.12.14.1.13 Any other information the Tribe or Gaming Commission deems relevant; and

7.12.14.1.14 Fingerprints consistent with procedures adopted by the Gaming Commission according to 25 C.F.R. § 522.2(h) and, as applicable, fingerprints to be processed through the State Gaming Agency.

7.12.15 Investigation Process. The Gaming Commission shall conduct or cause to be conducted, an investigation sufficient to make a determination of eligibility as required under this Gaming Act and other Applicable Law. This shall include verification of information submitted by the applicant. The Gaming Commission shall document all potential problem areas noted and any disqualifying information. In conducting the background investigation, the Gaming Commission and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

7.12.16 Fingerprints. The Gaming Commission shall cause fingerprints to be taken and forwarded to the NIGC and to the State Gaming Agency, as applicable, consistent with all applicable laws and the Compact. Fingerprints shall be processed through the FBI and/or other available state sources as applicable to determine the applicant's criminal history, if any.

7.12.17 Eligibility Determination. The Gaming Commission shall review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a Key Employee or Primary Management Official for employment in the Gaming Operation. If the Gaming Commission, in applying the standards adopted herein, determines that employment of the person poses a threat to the public interest or to the effective regulation of gaming, or creates or enhances dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, the Gaming Operation shall not employ that

person in a Key Employee or Primary Management Official position or in any other position for which a Class A license is required.

7.12.18 Forwarding Licensing Applications and Reports to NIGC.

7.12.18.1 Unless otherwise provided by the NIGC, on or before the date any Key Employee or Primary Management Official is employed by a Gaming Operation authorized under this, the Gaming Commission shall forward to the NIGC the person's completed application for employment containing the information required under Section 7.12.14 of this Gaming Act.

7.12.18.2 Prior to issuing a license to a Primary Management Official or Key Employee, the Gaming Commission shall forward to the NIGC, together with a copy of the eligibility determination made under Section 7.12.17 above, an investigative report on each background investigation. The investigative report on each background investigation shall be forwarded to the NIGC within sixty (60) days after the employee begins work. The Gaming Operation shall not employ or continue to employ any person as a Key Employee or Primary Management Official who does not have a license within ninety (90) days of beginning work. The investigative report shall include the following information:

7.12.18.2.1 Steps taken in conducting a background investigation;

7.12.18.2.2 Results obtained;

7.12.18.2.3 Conclusions reached; and

7.12.18.2.4 The basis for those conclusions.

7.12.18.3 The Gaming Commission shall provide to the NIGC or other applicable agency, any other reports and information required by IGRA and regulations promulgated thereunder. Further, with respect to Key Employees and Primary Management Officials, the Gaming Commission shall retain applications for employment and reports (if any) of background investigations for inspection by the NIGC for no less than three (3) years from the date of termination of employment.

7.12.18.4 If a license is not issued to an applicant, or the license is granted and later revoked, the Gaming Commission shall notify the NIGC and may forward copies of its eligibility determination and investigative report (if any) to the NIGC for inclusion in the Indian Gaming Individuals Records System.

7.12.19 Granting a Gaming License.

7.12.19.1 If, within a thirty (30) day period after the NIGC receives a report as required above, the NIGC notifies the Gaming Commission that it has no objection to the issuance of a license pursuant to the license application filed for a Key Employee or Primary Management Official for whom the Gaming Commission has provided an application and investigative report, the Gaming Commission may issue the license.

7.12.19.2 The Gaming Commission shall provide any additional information requested by the NIGC concerning a Key Employee or Primary Management Official who is the subject of a report as required under this subsection. An NIGC request for additional information shall suspend the thirty (30) day period established above until the NIGC receives the additional information.

7.12.19.3 If, within the thirty (30) day period established above, the NIGC provides a statement itemizing objections to issuance of a license to a Key Employee or Primary Management Official, the Gaming Commission shall reconsider the application, taking into account such objections. The Gaming Commission retains the right to make the final determination whether to issue the license to such applicant.

7.12.20 Denial of Gaming License. Applicants who are denied a license must wait for at least two (2) years before they may reapply for a gaming license.

7.12.21 License Suspension, Hearing and Appeal.

7.12.21.1 If, after issuing a gaming license, the Gaming Commission receives reliable information from the NIGC or other reliable source indicating that a Key Employee, Primary Management Official, or any other holder of a gaming license is not eligible for employment or to continue to hold the license under the eligibility criteria established above, the Gaming Commission shall suspend the license and notify the licensee in writing of the license suspension and proposed revocation.

7.12.21.2 The Gaming Commission shall notify the licensee of a time and place for a hearing on the proposed revocation of a license at which hearing the licensee shall be permitted to address the concerns of the Gaming Commission. Revocation hearings shall be conducted by the Deputy Commissioners unless such positions are not filled in which case they shall be conducted by the Gaming Commissioners.

7.12.21.3 After the revocation hearing, the Gaming Commission shall determine whether to revoke or to reinstate the gaming license. For actions taken in response to information provided by the NIGC, the Gaming Commission shall notify the NIGC of its decision.

7.12.21.4 Within fifteen (15) days of receipt of written notice of, or thirty (30) days following issuance of, a decision or order of the Gaming Commission, such as the one issued in accordance with subsection 7.12.21.3, whichever first occurs, any party who is the subject of such decision or order may file a petition for reconsideration with the Gaming Commission. Upon receipt of a timely filed petition for reconsideration, the Gaming Commission shall within thirty (30) days thereafter either set the matter for hearing or issue an order thereon. No Commissioner shall provide any personal endorsement, recommendation or other support for an applicant in connection with such reconsideration or appeal. No license shall be issued or held unless consistent with NIGC, state and tribal suitability requirements.

7.12.22 Effect of Compact. Notwithstanding anything in this Gaming Act to the contrary, any licensing procedures required under the Compact shall be implemented as provided therein, and the Gaming Commission may adopt regulations integrating such procedures with the foregoing.

SMTC 7.13 Application Forms

7.13.1 Notices. Each application form for a Key Employee or a Primary Management Official, as well as for all other Class A license applicants, unless otherwise specifically exempted by the Gaming Commission consistent with applicable law, shall contain the notices set forth in subsections 7.13.1.1 and 7.13.1.2 below:

7.13.1.1 Privacy Act Notice.

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. § 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by the San Manuel Band of Mission Indians and the National Indian Gaming Commission members and staff who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, tribal, state, local, or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a Tribe or the National Indian Gaming Commission in connection with the hiring or firing of an employee, the issuance or revocation of a gaming license, or investigations of activities while associated with a Tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a Tribe's being unable to hire you in a Primary Management Official or Key Employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

7.13.1.2 Notice Regarding False Statements.

A false statement on any part of your application may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by fine or imprisonment. (U.S. Code, title 18, § 1001) Furthermore, such false statement may be grounds for suspension or revocation of your gaming license.

7.13.2 Existing Licensees. Any existing Key Employee or Primary Management Official, or other Class A licensee, unless otherwise specifically exempted by the Gaming Commission, shall be notified that they shall either:

7.13.2.1 Complete a new application form that contains the Privacy Act Notice and the Notice Regarding False Statements; or

7.13.2.2 Sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice and sign a statement that contains the Notice Regarding False Statements.

SMTC 7.14 Class III Gaming; Compact

In addition to the provisions set forth above, Class III gaming shall be engaged in on the reservation pursuant to a Compact or by an alternative as provided by IGRA. All negotiations for such Compacts and amendments thereto shall be conducted through the Tribal Chairman, with the advice and suggestion of the Gaming Commission, and shall be finalized only upon majority vote of the General Council after consideration of the terms. In the event the provisions of a Compact, as approved under IGRA, may be inconsistent with provisions herein, the approved Compact provisions shall govern, but only to the extent inconsistent with this Gaming Act.

SMTC 7.15 Interest in Management Contracts by Tribal Officials

No elected official of the Tribe, any Commissioner, or any member of any other committee or agency of the Tribe, shall have a financial interest in or management responsibility for any management agreement entered into pursuant to IGRA, nor shall such elected official serve on the board of directors or hold (directly or indirectly) ten percent (10%) or more of the issued and outstanding stock of any corporation, or 10% or more of the beneficial interest in any partnership, trust, or other entity, in any such corporation, partnership, trust or other entity having a financial interest in, or management responsibility for, such contract.

SMTC 7.16 Limitations on Gaming

No elected or appointed official of the Tribe or licensed employee shall engage in or be permitted to engage in either directly or indirectly through another person, any Class II or Class III Gaming Activities authorized hereunder. Such limitation shall not apply in instances where, as pre-approved by the Gaming Commission, the individual engages in such activities as a part of an event designed specifically for such individuals or for training purposes.

SMTC 7.17 Service of Process

The Tribe designates the Chairperson of the Tribe as its agent for the service of official determinations, orders, or notices of violation from any federal or state agency. The Chairperson of the Gaming Commission shall also receive any notice related to gaming from any state, local or federal agency, including the NIGC and the State Gaming Agency.

SMTC 7.18 Tribal Gaming Corporation.

Nothing in this Gaming Act shall prevent the Tribe, through its General Council, from delegating the authority to conduct gaming to one or more Tribal corporations, so long as the tribal gaming enterprises to which such authority is delegated agree to meet all criteria and requirements established under this Gaming Act.

SMTC 7.19 Prior Gaming Ordinances; Effective Date

To the extent inconsistent with this Ordinance all prior gaming ordinances are hereby repealed on the effective date of this Ordinance. After adoption by the General Council, this Ordinance and any subsequent amendments thereto become effective on the date of final approval by the NIGC, as applicable.

SMTC 7.20 Severability

If any provision or application of this Gaming Act is determined by review to be invalid, such determination shall not be held to render such provision inapplicable to other persons or circumstances, nor shall such determination render invalid any other provision of this Gaming Act.

SMTC 7.21 Amendments

All provisions of this Gaming Act are subject to amendment by the General Council. Regulations promulgated by the Gaming Commission under this Gaming Act are subject to amendment by the Gaming Commission.

SMTC 7.22 Sovereign Immunity Preserved

Nothing in this Gaming Act is intended or shall be construed as a waiver of the sovereign immunity of the Tribe, and no manager, officer, or employee of the Gaming Commission or the Tribe or the Gaming Facility shall be authorized, nor shall they attempt, to waive the immunity of the Tribe.

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