NATIONAL
INDIAN
GAMING
COMMISSION

JUN 13 1994

Ralph Goff, Chairman
Campo Band of Mission Indians
1779 Campo Truck Trail
Campo, California 91906

Dear Chairman Goff:

This letter responds to your request to review and approve the tribal gaming ordinance adopted on February 13, 1994, and amended on May 31, 1994, by the Campo Band of Mission Indians (Band). This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, such approval does not constitute approval of specific games.

It is important to note that the gaming ordinance is approved for gaming only on Indian lands as defined in the IGRA.

With the Chairman's approval of the Band's gaming ordinance, the Band is now required to conduct background investigations on its key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Campo Band of Mission Indians for review and approval. The NIGC staff and I look forward to working with you and the Band in implementing the IGRA.

Sincerely yours,

Anthony J. Hope

Anthony J. Hope
Chairman

1850 M STREET N.W. SUITE 250 WASHINGTON, D.C. 20036 TEL 202-632-7003 FAX 202-632-7066

Ralph Goff
Chairman

Barbara Cuero
Vice-Chairman

Jackie Lelafu
Secretary

Harry P. Cuero, Jr.
Treasurer

COMMITTEE:

Brian Connolly
Jane Dyche
Michael Connolly

APPROVED

CAMPO BAND OF MISSION INDIANS
GENERAL COUNCIL RESOLUTION NO. 94-05-31-03

WHEREAS the Campo Band of Mission Indians ("Band") adopted a Gaming Ordinance ("Gaming Ordinance") on or about February 13, 1992; and

WHEREAS, pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 et seq. ("IGRA"), the Band submitted the revised Gaming Ordinance to the NIGC for its review and approval; and

WHEREAS, on March 18, 1994, the NIGC notified General Counsel to the Band that NIGC had reviewed the Gaming Ordinance and found deficiencies in the Gaming Ordinance, and that the NIGC will not approve the Gaming Ordinance unless the deficiencies are corrected; and

WHEREAS the following amendments to the Gaming Ordinance address the concerns raised by the NIGC, and the NIGC will approve the Gaming Ordinance if the Tribal Council adopts such amendments;

NOW, THEREFORE, BE IT RESOLVED that the Gaming Ordinance is amended as follows:

1. Section II(K) is deleted in its entirety and the following is inserted in its place:

""Key Employee" means

(1) A person who performs one or more of the following functions:

a. Bingo caller;

b. Counting room supervisor;

c. Chief of security;

d. Custodian of gaming supplies or cash;

e. Floor manager;

f. Pit boss;

g. Dealer;

h. Croupier;

i. Approver of credit; or

j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(2) If not otherwise included, any other person whose cash compensation is in excess of $50,000 per year; or

(3) If not otherwise included, the four most highly compensated persons in the gaming operation."

2. Section X(B)(1) is deleted in its entirety and the following is inserted in its place:

"(1) Gaming to be Conducted Pursuant to Compact. Any and all CLass III Gaming Activities to be conducted on the Reservation shall be conducted in accordance with the Indian Gaming Regulatory Act, a Compact entered into between the Band and the State of California and/or procedures approved by the Secretary of the Interior."

BE IT FURTHER RESOLVED that General Council is directed to cause the Gaming Ordinance to be restated as amended herein and to send the same to the NIGC for its review and approval.

CERTIFICATION

I hereby certify that on this 31 day of MAY, 1994, at a duly called meeting of the General Council of the Campo Band of Mission Indians, 11 voted in favor of the foregoing resolution, 1 against, and Ø abstained.

Barbara Cuero
Ralph Goff, Chairman

ATTEST:

for Jackie Lelafu, Secretary

Campo Band of Mission Indians

Ralph Goff
Chairman

Barbara Cuero
Vice-Chairman

Jackie Lelafu
Secretary

Harry P. Cuero, Jr.
Treasurer

COMMITTEE:

Brian Connolly
Jane Dyche
Michael Connolly

APPROVED

CAMPO BAND OF MISSION INDIANS
GENERAL COUNCIL RESOLUTION NO. 94-2-13-02

WHEREAS the Campo Band of Mission Indians (the "Band") is a sovereign Indian tribal government, recognized as such by the Secretary of the Interior of the United States of America ("the Secretary"); and

WHEREAS the Band adopted the Constitution of the Campo Band of Mission Indians (the "Constitution") on July 13, 1975, and the Constitution was duly approved by the Commissioner of Indian Affairs on January 20, 1976; and

WHEREAS Article IV, Section 1(E) of the Constitution authorizes the General Council to adopt ordinances and laws to regulate activities within the Campo Indian Reservation; and

WHEREAS the Band is responsible for providing needed governmental services to the residents of the Campo Reservation; and

WHEREAS the Band currently lacks sufficient revenue to provide governmental services at levels necessary to support the increasing population within the exterior boundaries of the Campo Reservation; and

WHEREAS, in furtherance of the development of a sound economic tribal economy, the Band has begun considering the establishment of gaming activities on the Campo Reservation; and

WHEREAS the Chairman has caused to be prepared a comprehensive Gaming Ordinance ("Ordinance") that complies with the Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §§ 2701 et seq.; and

WHEREAS the General Council has reviewed the Ordinance and finds that it is in the best interests of the Band and the public to adopt the Ordinance as proposed;

NOW, THEREFORE BE IT RESOLVED that the General Council of the Band hereby approves and enacts the Campo Band of Mission Indians Gaming Ordinance of 1994, which Ordinance is attached hereto and incorporated by reference herein.

CERTIFICATION

I, the undersigned, duly elected Chairman of the Campo Band of Mission Indians, do hereby certify that the foregoing Resolution was duly adopted by the members of the Campo Band of Mission Indians by a vote of 17 for and 0 against, with 2 abstaining, at a duly called Meeting of the General Council held on February 13, 1994.

Ralph Goff, Chairman

Attest:

Jackie Lelafu, Secretary

GAMING ORDINANCE
OF THE
CAMPO BAND OF MISSION INDIANS

Adopted on February 13, 1994 by General Council
Resolution No. 94-02-13-02

Amended on May 31, 1994, by General Council
Resolution No. 94-05-31-03

APPROVED

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GAMING ORDINANCE OF THE CAMPO BAND OF MISSION INDIANS

BE IT ENACTED BY THE COUNCIL OF THE CAMPO BAND OF MISSION INDIANS:

An Ordinance to Govern, Regulate, and Control Gaming Activities on the Campo Band of Mission Indians Reservation.

Section I. Name.

The name of this Ordinance shall be the Gaming Ordinance of the Campo Band of Mission Indians.

Section II. Definitions.

The following words shall have the following meanings under this Ordinance, unless the context otherwise requires:

A. "Bingo Game" means the Game of chance commonly known as "bingo" (whether or not electronic, computer, or other technologic aids are used in connection therewith) which is played for prizes, including monetary prizes, with cards bearing numbers and other designations in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and in which the Game is won by the first person covering a previously designated arrangement of numbers or designations on such cards, including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other Games similar to bingo;

B. "Chairman" means the Chairman of the Campo Band of Mission Indians;

C. "Class III Gaming" means all forms of gaming that may be operated or conducted only in conformance with a Tribal-State Compact

negotiated and entered into pursuant to Section 11(d) of the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68;

D. "Equipment" includes, with respect to Bingo Games, the receptacle and numbered objects drawn from it; the master board upon which such objects are placed as drawn; the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them; the board or signs, however operated, used to announce or display the numbers or designations as they are drawn; the public address system; and all other articles essential to the operation, conduct, and playing of Bingo Games;

E. "Games of Chance" means bingo and Class III gaming, but does not include social games played solely for prizes of minimal value, or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations;

F. "Gaming Device" means

(1) any so-called "slot machine" or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and (A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) any other machine or mechanical device (including but not limited to roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and (A) which when operated may deliver, as the

result of the application of an element of chance, any money or property, or (B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

F. "Gaming Facilities" means the building or structures in which Class II or Class III gaming is conducted;

G. "Gaming Ordinance" means this Gaming Ordinance of the Campo Band of Mission Indians and any rules or regulations promulgated hereunder;

H. "Gaming Services" means the providing of any goods or services, except for legal services, to the Band in connection with the operation of Class II or Class III Gaming in a Gaming Facility, including but not limited to equipment, transportation, food, linens, janitorial supplies, maintenance, or security services for the Gaming Facility, in an amount in excess of $10,000 in any single month;

I. "General Council" means the General Council of the Campo Band of Mission Indians, the governing body of the Band;

J. "Gross Receipts" means receipts from the sale of shares, tickets, or rights in any manner connected with participation or the right to participate in any Game of chance, including but not limited to any admission fee or charge, the sale of merchandise, refreshments, souvenirs,

services, equipment, or supplies, interest earned on deposits, and all other miscellaneous receipts;

K. "Key Employee" means

(1) A person who performs one or more of the following functions:

a. Bingo caller;

b. Counting room supervisor;

c. Chief of security;

d. Custodian of gaming supplies or cash;

e. Floor manager;

f. Pit boss;

g. Dealer;

h. Croupier;

i. Approver of credit; or

j. Custodian of gambling devices including persons with access to cash and accounting records within such devices;

(2) If not otherwise included, any other person whose cash compensation is in excess of $50,000 per year; or

(3) If not otherwise included, the four most highly compensated persons in the gaming operation."

L. "License" means a license duly issued to primary management officials and key employees of any gaming enterprise conducted on the Reservation by the General Council pursuant to this Gaming Ordinance;

M. "Licensee" means any person who has been duly licensed by the General Council;

N. "Manager" means the Manager hired pursuant to Section 8 of this Gaming Ordinance;

O. "Member of the Band" means an enrolled member of the Campo Band of Mission Indians;

P. "Monitor" means the Campo Band of Mission Indians Gaming Monitor appointed pursuant to this Gaming Ordinance, and includes his or her appointees and employees.

Q. "National Indian Gaming Commission" means the National Indian Gaming Commission established by the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-21, 18 U.S.C. §§ 1166-68;

R. "Net Revenues" means the gross receipts less (a) amounts paid out as, or paid for, prizes, and (b) total gaming related operating expenses, excluding management fees.

S. "Occasion" means a gathering at which a Game of chance is played;

T. "Person" means an individual, trust, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other legal entity whatsoever;

U. "Premises" means any room, hall, building, enclosure, or outdoor or other area used for the purpose of playing a Game of chance;

V. "Primary Management Official" means

(1) The person having management responsibility for a management contract;

(2) Any person who has authority :

a. To hire and fire employees; or

b. To set up working policy for the gaming operation; or

(3) The chief financial officer or other person who has financial management responsibility; and

W. "Reservation" means the Campo Band of Mission Indians Reservation and any lands title to which is held in trust by the United States for the benefit of the Campo Band of Mission Indians or a member thereof or held by the Campo Band of Mission Indians subject to a restriction by the United States against alienation, and over which lands the Campo Band of Mission Indians exercises governmental power.

Section III. Purposes.

The purposes of this Gaming Ordinance are to make lawful and to regulate the operation, conduct, and playing of Games of chance on the Reservation so that revenue may be produced to fund tribal governmental operations and programs which promote the health, education, and welfare of the Band and its members and which promote tribal economic development.

Section IV. Interpretation. This Gaming Ordinance is an exercise of the sovereign power of the Band and shall be liberally construed for the accomplishment of its purposes and to comply with the Indian Gaming Regulatory Act.

Section V. Gaming Policy.

A. Games of Chance Prohibited. No person may operate or conduct any Games of chance within the boundaries of the Reservation except in accordance with the provisions of this Gaming Ordinance.

B. Ownership of Gaming Enterprise. The Campo Band of Mission Indians, acting through the General Council and Muht-Hei, Inc., a

corporation chartered and wholly-owned by the Band, shall have the sole proprietary interest in and responsibility for the operation and conduct of any Games of chance operated or conducted on the Reservation.

C. Protection of Environment; Public Health and Safety. The construction and maintenance of any gaming facility, and the operation and conduct of any and all Games of chance, shall be done in a manner that adequately protects the environment and the public health and safety.

Section VI. Campo Band of Mission Indians Gaming Monitor.

A. Establishment of Gaming Monitor. There hereby is established the Campo Band of Mission Indians Gaming Monitor ("Monitor") for the purposes of regulating all Games of chance within the Reservation and enforcing this Gaming Ordinance. The Monitor shall be appointed by the General Council.

B. Powers and Duties. The Monitor shall have the following powers and duties:

(1) To recommend to the General Council whether it should permit or refuse to permit the operation or conduct of any Games of chance within the exterior boundaries of the Reservation, and to specify the conditions for the operation or conduct of any Games of chance within the exterior boundaries of the Reservation.

(2) To grant, suspend, or revoke licenses to Primary Management Officials and Key Employees of Muht-Hei, Inc., in accordance with this Gaming Ordinance.

(3) To monitor and oversee the operation and conduct of all Games of chance within the exterior boundaries of the Reservation on a

continuing basis, including but not limited to ongoing monitoring and oversight of licensees engaged in the operation and conduct of such Games.

(4) To inspect and examine all premises within the Reservation at which Games of chance are played.

(5) To conduct or cause to be conducted background investigations of persons involved, directly or indirectly, in the operation or conduct of Games of chance within the Reservation.

(6) To inspect, examine, photocopy, and audit all papers, books, and records respecting gross receipts of gaming activities operated or conducted within the Reservation and any other matters necessary to carry out the duties of the Monitor under this Gaming Ordinance.

(7) To bring suits in any court of competent jurisdiction seeking temporary and permanent orders closing a Game of chance in accordance with this Gaming Ordinance.

(8) To enter into contracts with tribal, federal, state, and private entities for activities necessary to the discharge of the duties of the Monitor and to contract with the National Indian Gaming Commission for the enforcement of federal regulations governing gaming on Indian reservations.

(9) Subject to the approval of the General Council, to adopt the budget of the Monitor annually.

(10) Subject to the approval of the General Council, to establish fees for applications for licenses and fees for licensees based on a percentage of the gross receipts of Games of chance operated or conducted by such licensees.

(11) To require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation by the Monitor, and to bring actions in any court of competent jurisdiction for the enforcement of such subpoenas.

(12) To administer oaths and affirmations to witnesses appearing before the Monitor.

(13) Subject to the approval of the General Council, to approve gaming management contracts in accordance with this Gaming Ordinance.

(14) To hear appeals in accordance with this Gaming Ordinance.

(15) To keep minutes, records, and books in which shall be kept a true, faithful, and correct record of all proceedings of the Monitor.

(16) To promulgate rules and regulations as it deems appropriate to implement the provisions of this Gaming Ordinance.

(17) To recommend amendments to this Gaming Ordinance to the General Council.

(18) To submit an annual report to the General Council on the activities of the Monitor, such report to include information on the funding, income, and expenses of the Monitor.

C. **Qualification of Monitor.** No person shall be eligible or qualified to serve or continue to serve as the Monitor or as an appointee or employee of the Monitor, who:

(1) Has been convicted of a felony or gaming offense;

(2) Has any financial interest in, or management responsibility for, any gaming activity; or

(3) Has a financial interest in, or management responsibility for, any management contract submitted to the Monitor for review or approval.

D. Removal of Monitor. The Monitor may be involuntarily removed from office prior to the expiration of his term in accordance with the following procedures:

(1) Removal of the Monitor may be initiated by providing the Secretary of the General Council with a written request specifying the cause for removal, signed by not less than one-half (1/2) of the members of the Executive Committee.

(2) The cause for removal shall be limited to: (1) conviction in any court of a felony or crime involving moral turpitude; (2) failure to meet or maintain the qualifications for Monitors set forth in Subsection (C) of this Section; (3) gross neglect of duty; or (4) malfeasance in office, or conduct which amounts to gross and intentional disregard of the laws and procedures applicable to the affairs of the Monitor.

(3) Not less than twenty (20) nor more than thirty (30) days following receipt of the written request for removal, the General Council shall convene a special meeting for the sole purpose of voting on the removal of the Monitor. Before any vote is taken, the Monitor shall be given a full opportunity, either in person or through a representative of his or her choice, to answer or otherwise respond to any and all charges against him or her.

(4) To remove the Monitor from office, the affirmative vote of no less than two-thirds (2/3) of the members of the General Council present and voting is required.

E. Resignations and Vacancies. Any Monitor may resign at any time by giving written notice of such to the Secretary of the General Council. The resignation shall become effective at the time specified in such notice, and the acceptance of such resignation shall not be necessary to make it effective.

F. Cooperation With Law Enforcement Agencies. The Monitor may cooperate with law enforcement officials of the State of California, the Bureau of Indian Affairs, the Federal Bureau of Investigation, and other law enforcement agencies, when such cooperation is in the best interests of the Band and will help to insure that fair, honest, and efficient Games of chance are operated and conducted within the Reservation.

G. Compensation. The Monitor shall be compensated as determined by the General Council.

Section VII. License For Operating And Conducting Games of Chance.

A. License Required. Muht-Hei, Inc. and its principals, Primary Management Officials, and Key Employees; the Manager and its principals; any person that has supplied or proposes to supply any Gaming Devices to Muht-Hei, Inc. or the Manager; and each person providing Gaming Services within or without a Gaming Facility shall apply for and receive a license from the Monitor before their participation in any way in the operation or conduct of any Gaming Activities within the Reservation. A separate license shall be required for each location of a Gaming Facility.

B. License Application. Each applicant for a license shall file with the Monitor a written application in the form prescribed by the Monitor, along with the applicant's fingerprint card, current photograph, and the fee required by the Monitor.

(1) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

> 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 members and staff of Muht-Hei, Inc., the Campo Gaming Monitor, and the National Indian Gaming Commission 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, the information is relevant to 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 with a tribal gaming enterprise.
>
> The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(2) Existing Key Employees and Primary Management Officials shall be notified in writing that they shall either:

a. Complete a new application form that contains a Privacy Act notice; or

b. Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(3) The following notice shall be placed on the application form for a Key Employee or a Primary Management Official before that form is filled out by an applicant:

> 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. See 18 U.S.C. § 1001.

(4) The Monitor shall notify in writing existing Key Employees and Primary Management Officials that they shall either:

a. Complete a new application form that contains a notice regarding false statements; or

b. Sign a statement that contains the notice regarding false statements.

C. **Background Investigations**.

(1) Upon receipt of a completed application and required fee for licensing, the Monitor shall conduct or cause to be conducted a background investigation to ensure that the applicant is qualified for licensing.

(2) The Monitor shall request from each applicant, and from each Principal, Primary Management Official, and Key Employee of each applicant, all of the following information:

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

b. Currently and for the previous five (5) years, business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license

numbers; provided that any applicant who is a Primary Management Official, Key Employee, Management Contractor, Manufacturer and Supplier of Gaming Devices, and/or a Person providing Gaming Services, must provide such information currently and from the age of eighteen;

c. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed in paragraph (1)(b) of this section;

d. Current business and residence telephone numbers;

e. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses, and a description of any potential or actual conflict of interest between such businesses and Indian tribes;

f. A description of any existing and previous business relationships in the gaming industry, including but not limited to ownership interests in those businesses;

g. The name and address of any licensing or regulatory agency with which in the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

h. For each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

i. For each misdemeanor for which there is an ongoing prosecution or conviction (excluding minor traffic violations), the

charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

j. For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to paragraph (2)(h) or (2)(i) of this section, the criminal charge, the date of the charge, the name and address of the court involved, and the disposition, if any;

k. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, as an applicant, Primary Management Official, or Key Employee, and whether or not such license or permit was granted;

l. A current photograph;

m. Fingerprints consistent with procedures adopted by the Band according to 25 C.F.R. § 522.2(h);

n. The fee required by the Monitor; and

o. Any other information the Monitor deems relevant.

(3) In conducting a background investigation, the Monitor and its agents shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Temporary License. Within twenty (20) days of the receipt of a completed application for licensing, and upon request of an applicant, the Monitor may issue a temporary license to the applicant unless the background investigation undertaken discloses that the applicant has a criminal history, or unless other grounds sufficient to disqualify the applicant are apparent on the face of the application. The temporary license shall become void and be of no effect upon either (1) the issuance

of the license; (2) the issuance of a notice of denial; or (3) ninety (90) days after the licensee has begun working.

E. **Eligibility Determination**. The Monitor shall review a person's prior activities, criminal record, if any, and reputation, habits, and associations to make a finding concerning the eligibility of an applicant or Key Employee or Primary Management Official of an applicant, for employment or involvement in a gaming operation. Upon completion of the investigation, the Monitor shall either issue a license or deny the application. If the Monitor determines that employment or involvement of the person or applicant poses a threat to the public interest or to the effective regulation of a Gaming Activity, or creates or enhances dangers of unsuitable, unfair, or illegal practices, methods, or activities in the conduct of Gaming Activities, the Monitor shall deny the application.

F. **Additional Background Investigations**. The Monitor retains the right to conduct additional background investigations of any person required to be licensed at any time while the license is valid.

G. **Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the National Indian Gaming Commission**.

(1) When a Key Employee or Primary Management Official begins work at a Gaming Operation authorized by this Gaming Ordinance, the Monitor shall forward to the National Indian Gaming Commission a completed application for employment and conduct the background investigation and make the determination referred to in Subsection (E) of this Section.

(2) The Monitor shall forward the report referred to in Subsection (H) of this Section to the National Indian Gaming Commission within sixty (60) days after an employee begins work or within sixty (60)

days of the approval of this Gaming Ordinance by the Chairman of the National Indian Gaming Commission.

(3) The Gaming Operation shall not employ as a Key Employee or Primary Management Official a person who does not have a license after ninety (90) days.

H. Report to the National Indian Gaming Commission.

(1) Pursuant to the procedures set out in Subsection (G) of this Section, the Monitor shall prepare and forward to the National Indian Gaming Commission an investigative report on each background investigation. An investigative report shall include all of the following:

a. steps taken in conducting the background investigation;

b. results obtained;

c. conclusions reached; and

d. the bases for those conclusions.

(2) The Monitor shall submit with the report a copy of the eligibility determination made under Subsection (E) of this Section.

(3) If a license is not issued to an applicant, the Monitor:

a. shall notify the National Indian Gaming Commission; and

b. may forward copies of its eligibility determination and investigative report (if any) to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.

(4) With respect to Key Employees and Primary Management Officials, the Monitor shall retain applications for employment and reports (if any) of background investigations for inspection by the Chairman of the National Indian Gaming Commission or his or her designee for no less than three (3) years from the date of termination of employment.

I. Granting a Gaming License.

(1) If, within a thirty (30) day period after the National Indian Gaming Commission receives a report, the National Indian Gaming Commission notifies the Monitor that it has no objection to the issuance of a license pursuant to a license application filed by a Key Employee or Primary Management Official for whom the Monitor has provided an application and investigative report to the National Indian Gaming Commission, the Monitor may issue a license to such applicant.

(2) The Monitor shall respond to a request for additional information from the Chairman of the National Indian Gaming Commission concerning a Key Employee or a Primary Management Official who is the subject of a report. Such a request shall suspend the 30-day period under Paragraph (I) (1) of this section until the Chairman of the National Indian Gaming Commission receives the additional information.

(3) If, within the thirty (30) day period described above, the National Indian Gaming Commission provides the Monitor with a statement itemizing objections to the issuance of a license to a Key Employee or to a Primary Management Official for whom the Monitor has provided an application and investigative report to the National Indian Gaming Commission, the Monitor shall reconsider the application, taking into account the objections itemized by the National Indian Gaming Commission, and make a final decision whether to issue a license to such applicant."

Section VIII. Management Contract.

A. Recommendation of Manager. The Board of Directors of Muht-Hei, Inc. shall recommend to the General Council a person to serve as Manager of the gaming operations. Upon receiving a recommendation from the Board of

Directors, the General Council shall either approve or disapprove the person recommended.

B. Management Contract. Upon approval by the General Council of the person recommended to serve as Manager, the Board of Directors of Muht-Hei, Inc. shall execute a management contract with the Manager, such management contract to be subject to the approval of the Monitor and the General Council in accordance with this Section. For purposes of this Gaming Ordinance, any reference to the management contract shall be considered to include all collateral agreements to such contract as relate to the gaming activity.

C. License Required for Approval of Management Contract. Before approving any management contract, the Monitor shall require that all primary management officials and key employees of the Manager be licensed by the General Council.

D. Standards for Approval. The Monitor may approve a gaming management contract only if the contract provides:

(1) For the adoption and maintenance of adequate accounting procedures and for verifiable financial reports to be prepared and submitted to the General Council on a monthly basis;

(2) For access of the Monitor to the daily operations of the gaming and for permission for such official to verify the daily gross revenues and income made from the licensed gaming activity;

(3) For a minimum guaranteed payment to the Band, which payment must be made prior to retirement of any development and construction costs;

(4) For an agreed ceiling for the repayment of development and construction costs, if any;

(5) For a contract term not to exceed five (5) years;

(6) For grounds and procedures for terminating such contract, but actual contract termination shall not require the approval of the Monitor; and

(7) All of the provisions required by 25 C.F.R. § 531.1.

E. Management Contract Fees. The Monitor may approve a management contract providing for a fee based upon a percentage of the Net Revenues. Such fee shall not exceed thirty percent (30%) of the Net Revenues.

F. Standards for Disapproval. The Monitor shall not approve any management contract if the Monitor determines that:

(1) The Manager or any Primary Management Official or Key Employee of the Manager is not licensed or is ineligible to be licensed; or

(2) A trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

G. Action by Monitor. The Monitor shall approve or disapprove a management contract within thirty (30) days after it is submitted to the Monitor for approval. The Monitor may extend the thirty (30) day period by not more than thirty (30) days if he or she notifies Muht-Hei, Inc. and the General Council in writing of the reason for the extension.

H. Modification and Revocation of Management Contract. The Monitor, after notice and hearing, shall have the authority to require appropriate contract modifications and may void any management contract if it determines that this Gaming Ordinance or the management contract has been violated.

I. **No Transfer of Real Property.** No management contract for the operation and management of a gaming activity regulated by this Gaming Ordinance shall transfer or in any other manner convey any interest in land or other real property, unless specific statutory authority exists therefor and unless clearly specified in writing in said management contract.

J. **Approval by Council.** Upon the approval of a management contract by the Monitor, the management contract shall be submitted to the General Council for approval or disapproval. The General Council shall approve or disapprove the management contract at its next regular meeting.

K. **Management Contract Binding Upon Approval.** No management contract, and no modification, revision, or amendment thereto, shall be binding upon Muht-Hei, Inc. unless and until approved by the Monitor and the General Council.

Section IX. Financial Practices And Reporting.

A. **Monthly Reports.** On or before the tenth day of each month, Muht-Hei, Inc. and the Manager shall file with the Monitor and the General Council a certified financial report for the preceding calendar month showing the amount of gross receipts derived from Games of chance, the operating expenses incurred or paid, the specific classifications of such expenses, the names and addresses of each person to whom has been paid Six Hundred Dollars ($600.00) or more in the aggregate and the purposes of such payments, and the Net Revenues derived from Games of chance. It is the duty of Muht-Hei, Inc. and the Manager to maintain and keep such books and records as may be necessary to substantiate the particulars of each report. If Muht-Hei, Inc. or the Manager fails to file a report within the time

allowed, or if a report is not properly certified or not fully, accurately, and truthfully completed, the license of Muht-Hei, Inc. and/or the Manager may be suspended by the Monitor until such time as the deficiency has been corrected.

B. Maintenance of Books and Records; Monitor Access. Full and accurate books of account shall be kept at the places of business of Muht-Hei, Inc. and the Manager, showing the condition of the business and all transactions relating to Games of chance on the Reservation. The Monitor and the Chairman shall have access to such books of account and shall be entitled to examine them without notice at any time during ordinary business hours or during Games of chance either in person or by an agent. All records of Games of chance in whatever medium shall be maintained for five (5) years.

C. Allowable Operating Expenses. No item of expense shall be incurred or paid in connection with operating or conducting any Game of chance except a bona fide expense in a reasonable amount. Expenses may be incurred only for the following purposes:

(1) For the purchase of goods, wares, and merchandise furnished;

(2) For services rendered by the Manager (including repayment of development fees and construction costs, if any) for maintenance or repairs of gaming and related equipment, and for operating or conducting a Game of chance;

(3) For rent, janitorial, and security services;

(4) For legal and accounting fees;

(5) For taxes and license fees;

(6) For utilities;

(7) For insurance; and

(8) For prizes for winners of Games of chance.

D. Deposit of Gross Receipts; Payment of Operating Expenses. All gross receipts shall be deposited in a special account of Muht-Hei, Inc. which shall contain only gross receipts. All operating expenses shall be withdrawn from such account by consecutively numbered checks duly signed by the Manager or an official or officials thereof designated by the Manager, and the President of Muht-Hei, Inc. or an employee or employees thereof designated by the President, payable to a specific person or organization. No check shall be drawn to "cash" or a fictitious payee.

E. Annual Audit. Muht-Hei, Inc. and the Manager shall cause to be produced an annual outside independent certified audit of all gaming activities and shall deliver the same to the General Council, the Monitor, and the National Indian Gaming Commission in accordance with all applicable regulations.

F. Audit of Contracts. Any contract for supplies, services, or merchandise in an amount greater than $25,000 annually, except contracts for professional legal or accounting services, which contract relates to gaming activities, shall be subject to annual outside independent certified audits on the order of the General Council or the Monitor.

G. Disposition of Net Revenues. One-half of the Net Revenues derived from Games of chance shall be deposited into the general fund of the Band on a quarterly basis and shall not be used for purposes other than to fund Band governmental operations and programs and provide for the general welfare of the Band and its members. One-half of the Net Revenues

shall be retained by Muht-Hei, Inc. to promote tribal economic development in accordance with its charter.

H. Compliance with Internal Revenue Code. The Manager shall maintain a permanent record containing the name and address of each player who receives a prize if and as required by and in accordance with the Internal Revenue Code.

Section X. Bingo And Class III Games.

A. Bingo. Upon the General Council's approval of a management contract, Muht-Hei, Inc. shall have authority to establish, equip, operate, and maintain a bingo operation on premises located at such places on the Reservation as the General Council may designate.

B. Provisions Applicable to Class III Gaming Activities.

(1) Gaming to be Conducted Pursuant to Compact. Any and all Class III Gaming Activities to be conducted on the Reservation shall be conducted in accordance with the Indian Gaming Regulatory Act, a Compact entered into between the Band and the State of California, and/or procedures approved by the Secretary of Interior.

(2) Vendor Licensing. Any person, corporation, or other entity that has supplied or proposes to supply any gaming equipment or devices to any entity on the Reservation for use in conjunction with any Class III gaming activity must be licensed by the Monitor and shall be subject to a full background investigation in accordance with the provisions of Section VII of this Ordinance, and the Monitor shall prescribe appropriate forms, procedures, and standards for such licensing.

(3) Class III Gaming Rules. The Monitor shall have the authority to prescribe rules and procedures to govern any Class III gaming

authorized to be conducted pursuant to this Ordinance not inconsistent with the provisions of the Compact or with this Ordinance, as the Monitor deems reasonable and appropriate.

C. Action by the Chairman. The Chairman may, at his or her discretion and on his or her own behalf, based on reasonable grounds or on reliable complaint made, and after written notice giving Muht-Hei, Inc. and the Manager thirty (30) days to cure an alleged violation, seek such relief from any court of competent jurisdiction as is authorized in this Gaming Ordinance or the Indian Gaming Regulatory Act, against Muht-Hei, Inc., the Manager or their Primary Management Officials, Key Employees, officers, directors, or employees having duties to perform respecting the operation and conduct of Bingo Games and/or Class III gaming, as may be necessary in the judgment of the Chairman for the proper enforcement of this Gaming Ordinance or any management contract.

D. Designation of Officer In Charge. The Manager shall designate a person to be the officer in charge for each occasion. The officer in charge shall be primarily responsible for the operation and conduct of Bingo Games or Class III Gaming on that occasion. The officer in charge must have obtained a license from the Monitor at least ten (10) days prior to the occasion. The officer in charge shall supervise all activities on the occasion and shall be present on the premises continuously during the playing of Bingo Games or Class III Gaming and for a period of at least one (1) hour after the last Bingo Game of the occasion has been completed.

E. Premises Open to Monitor. Premises where any Bingo Game or Class III Gaming is being operated or conducted, or where it is intended

that a Bingo Game or Class III Gaming will be operated or conducted, shall at all times be open to inspection by the Monitor.

F. Merchandise Prizes. When any merchandise is awarded as a prize in a Bingo Game or Class III Gaming, the value of such merchandise shall be its current retail price. Merchandise awarded as a prize shall not be redeemable or convertible into cash, directly or indirectly.

G. Usual Prices. Equipment, prizes, and supplies for Games of chance shall not be purchased or sold at prices in excess of the usual price thereof.

H. Limits on Prizes. The size of the prizes offered or given in any Bingo Game or Class III Gaming or on any occasion shall be subject to such limits as may be established by regulations duly promulgated by the Monitor or a Tribal-State Compact entered into pursuant to Section 11(d) of the Indian Gaming Regulatory Act.

I. Rules of Play for Bingo Games.

(1) The equipment used in playing Bingo Games and the method of play shall be such that each card shall have an equal opportunity to win. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance, and all other characteristics that may influence their selection. All objects or balls shall be present in the receptacle before each Game is begun. All numbers or designations drawn shall be announced plainly and clearly, and shall be audible or visible to all the players present including, where more than one room is used for any Bingo Game, all players present in each room. The receptacle, the caller, and the person removing the objects or balls from the receptacle must be visible to all the players at all times, except that where more than one

room is used for any Bingo Game, the receptacle and the caller must be present in the room where the greatest number of players are present. The cards or sheets of the players shall be part of a deck, group, or series of cards, no two of which shall be alike, and which deck, group, or series shall not be so prepared or arranged as to prefer any card. The particular arrangement of numbers or designations required to be covered in order to win the Game and the amount of the prize shall be plainly and clearly described, and audibly or visibly announced to the players immediately before each Game is begun.

(2) Players Entitled to Verification. Any player shall be entitled to call for a verification of all numbers or designations drawn at the time a winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the officer in charge on the occasion.

(3) Players Required To Be Present. Only persons physically present on the premises where a Bingo Game is actually operated and conducted may participate as players in the Game.

J. Employees; Prohibition Against Employees Playing. All persons who operate or conduct, or assist in operating or conducting, a Bingo Game or Class III gaming shall be employees of Muht-Hei, Inc. or the Manager and shall wear legible tags evidencing their names and the legend of the Band. No employee of Muht-Hei, Inc. who is employed at a Gaming Facility and no employee of the Manager may play any Bingo Game or Class III Gaming or win any prize or thing of value during his or her employment and for ninety (90) days after termination of such employment.

K. Qualification for Employment; Testing. Employees of Muht-Hei, Inc. and the Manager shall be of good moral character, shall not have been convicted of any felony or gaming offense, and, as a condition of their contract of employment, shall agree to any lawful means of testing for truthfulness, including but not limited to polygraph testing, at any time and without prior notice, concerning the handling, collection, and/or disbursement of gross receipts. No person shall be employed by Muht-Hei, Inc. or the Manager to work for or at any Gaming Facility, whose prior activities, criminal record if any, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the operation or conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

L. Preference in Employment. Members of the Band and their spouses and children shall receive preference in employment and advancement if they meet the qualifications for employment with Muht-Hei, Inc. and the Manager.

M. Personnel Policies. Muht-Hei, Inc. and the Manager shall adopt written personnel policies that shall be provided to each employee; these shall provide an informal grievance procedure and shall provide for an employee's right to receive a written statement of reasons for dismissal in the event such employee is dismissed.

N. Hiring and Training of Employees. Muht-Hei, Inc. and the Manager shall provide sufficient training to all employees and shall provide for employees who are members of the Band training programs with

specified timelines which will enable members of the Band to acquire the experience and skills necessary to become managers and supervisors in Bingo Games and Class III Gaming operated by Muht-Hei, Inc.

O. Expenses of Training Employees. The expense of providing training to members of the Band and to their spouses and children shall be an operating expense of Muht-Hei, Inc. and the Manager.

P. Patron Disputes.

(1) Refusal to Pay Winnings. Whenever the Manager refuses payment of alleged winnings to a patron, and the Manager and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:

a. At least five hundred dollars ($500), the Manager shall immediately notify the Monitor. The Monitor shall conduct whatever investigation it deems necessary and shall determine whether payment should be made; or

b. Less than five hundred dollars ($500), the Manager shall inform the patron of his or her right to request that the Monitor conduct an investigation. Upon request of the patron, the Monitor shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

(2) Notice to Patrons. The Monitor shall mail written notice by certified mail, return receipt requested, to the Manager and the patron of the decision resolving the dispute within thirty (30) days after the date that the Monitor first receives notification from the Manager or a request to conduct an investigation from the patron.

(3) Effective Date of Decision. The decision of the Monitor is effective on the date it is received by the aggrieved party as reflected on the return receipt.

(4) Review of Decision. Within thirty (30) days after the date of receipt of the written decision, the aggrieved party may file a petition with the Monitor requesting a review of the decision. The Monitor may set a hearing on the matter or may make a decision based solely upon the prior decision and other documentation provided to it by the patron and the Manager. The Monitor shall then issue a written decision and mail it to the parties. The decision of the Monitor shall be final and binding upon the patron and the Manager and shall not be subject to judicial review, dispute resolution, or other legal action.

Section XI. Suspension Or Revocation Of License.

A. Grounds for Suspension and Revocation. If a licensee makes a false statement in any application for a license, in any statement annexed thereto, or in any response to a request by the Monitor for information; fails to keep sufficient books and records to substantiate the reports required by this Gaming Ordinance; falsifies any books or records relating to any transaction connected with the operation or conduct of any Game of chance; is convicted of any felony or gaming offense; interferes with or unduly influences or attempts to interfere or unduly to influence any decision or process of the government of the Band relating to gaming; or deliberately or substantially fails to provide information to or answer relevant questions of the Monitor or otherwise fails to comply with this Gaming Ordinance or the terms of any license granted pursuant hereto; or if the Monitor receives reliable information from the National Indian Gaming

Commission or any other source that the licensee does not meet the standards established in Section VII; his or her license may be suspended and, after notice and a hearing before the Monitor pursuant to this Section, such license may be revoked. This sanction is in addition to any other sanction that may be imposed under this Gaming Ordinance.

B. Notice; Immediate Suspension. Proceedings to suspend or revoke a license shall be initiated by the Monitor by serving a complaint upon the licensee. If, in the Monitor's judgment, the public interest; the effective regulation and control of gaming; or the safe, fair, and honest operation and conduct of Games of chance so require, the Monitor may suspend a license immediately pending the holding of a hearing. Such an immediate suspension shall take effect upon service of the complaint upon the licensee.

C. Contents of Complaint; Service. The complaint shall set forth the violations of this Gaming Ordinance which the Monitor has reasonable cause to believe the licensee has committed. The Monitor shall cause the complaint and notice of hearing to be served personally upon the licensee or any agent of the licensee, or to be sent by certified mail or overnight delivery to the licensee at the address shown upon the license. The complaint shall notify the licensee of the place and date of a hearing, such date to be not less than twenty (20) days after the licensee receives a copy of the complaint.

D. Answer; Subpoenas. Upon receipt of a complaint and notice of hearing, the licensee shall answer the complaint and shall inform the Monitor whether the licensee desires to present evidence. At the request of the licensee for good cause shown, or on its own motion, the Monitor

shall issue subpoenas for the attendance of witnesses and for the production of papers, books, records, and documents.

E. Hearing; Written Decision. The hearing shall be held and concluded without unreasonable delay. The Monitor shall hear the matter and make a decision in writing, including findings of fact in support of its decision. The Monitor shall issue its decision within thirty (30) days of the hearing. The licensee shall be informed immediately of the decision and, in the event of a suspension or revocation of his or her license, of the effective date of the suspension or revocation.

F. Surrender of License. When the Monitor suspends or revokes a license, the licensee shall surrender the license to the Monitor on or before the effective date of the suspension or revocation. No license shall be valid as of the effective date of the suspension or revocation, whether surrendered or not.

G. Additional Sanctions. Upon its determination to suspend or revoke a license, the Monitor, in addition to any other penalties that may be imposed, may declare the licensee ineligible to operate or conduct Games of chance, to participate, directly or indirectly, in the operation or conduct of Games of chance, or to apply for a license for a period not exceeding twelve (12) months. Such declaration of ineligibility may be extended to include any primary management officials, key employees, owners, officers, or directors of the licensee, and any of its subsidiary organizations, parent organizations, or affiliates.

H. Appeal to Executive Committee. Any licensee aggrieved by a decision of the Monitor, within thirty (30) days after receipt of a copy of the order of the Monitor, may appeal the order to the Executive Committee,

and the Executive Committee shall have jurisdiction to consider and resolve such appeal. The Executive Committee shall affirm the order of the Monitor unless such order was entered in violation of due process, was arbitrary or capricious, or was otherwise in contravention of law. The Executive Committee may reverse, vacate, or modify the order of the Monitor if the Executive Committee determines that the order was unlawful. In reaching its decision, the Executive Committee shall consider only such evidence relating to the order from which appeal is taken as appears in the records of the Monitor and was available to the Monitor at the time of its decision.

Section XII. Enforcement; Jurisdiction; Subpoenas.

A. Civil Remedies. Except as otherwise provided in this Gaming Ordinance, any person authorized to enforce this Gaming Ordinance may bring a civil action in the any court of competent jurisdiction against any person who violates this Gaming Ordinance or engages in an activity or activities prohibited herein and recover monetary damages, attorney fees, injunctive relief, and/or any other relief that is just and equitable under the circumstances. The court may order a person who commits an intentional or wilful violation to pay punitive damages, which shall be assessed in an amount not to exceed three (3) times the actual damages or one thousand dollars ($1,000), whichever is greater. The court may order a civil penalty not to exceed five thousand dollars ($5,000) for each day that a violation occurs and for each separate violation. For good and sufficient cause found, the court may exclude from the Reservation any person who engages in an activity or activities in violation of this Gaming Ordinance to the extent such exclusion is not inconsistent with the laws of the Band.

Any person who violates this Gaming Ordinance, or whose employees or agents in the course of their employment or agency violate this Gaming Ordinance, may have the right to engage in business on the Reservation suspended or terminated. Nothing in this Gaming Ordinance shall be construed to authorize or require the exercise of criminal jurisdiction over non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

B. Enforcement of Monitor Subpoenas. If a person subpoenaed to attend or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Monitor fails to obey the command of the subpoena without reasonable cause, or if a person in attendance at any hearing or investigation refuses, without lawful cause, to be examined, to answer a legal and pertinent question, or to exhibit any book, account, record, or other document when ordered to do so by the representative of the Monitor conducting such investigation or hearing, the Monitor may apply to any court of competent jurisdiction for an order returnable in not less than five (5) nor more than ten (10) days directing the person to show cause why he should not comply with such subpoena. For purposes of this Gaming Ordinance, no person shall be excused from testifying or producing any books, accounts, records, or other documents in any investigation or hearing on the ground that such testimony or documentary evidence may tend to incriminate him or her, if the Monitor or court agrees in writing that such person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production, provided that no person shall be exempt from prosecution or

punishment for any act of perjury committed by him or her under a grant of immunity under this Subsection.

Section XIII. Effective Date.

This Gaming Ordinance shall be effective upon its approval by the Chairman of the National Indian Gaming Commission.