NATIONAL INDIAN GAMING COMMISSION

MAY 2 2 2008

Ms. Margie Mejia, Chairperson
Lytton Rancheria
1300 N. Dutton Ave., Suite A
Santa Rosa, CA 95401

Re: Request for Approval of Amendment to the Lytton Rancheria Gaming Ordinance

Dear Chairwoman Mejia:

This letter responds to your request to the National Indian Gaming Commission (NIGC) to review and approve the amended Lytton Rancheria Gaming Ordinance, enacted by the Lytton Rancheria Tribal Council by Resolution No. 013008-2 on January 30, 2008, and received by the NIGC on March 20, 2008.

This letter constitutes approval of the amended Ordinance 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 Nation has jurisdiction.

Thank you for submitting the amended Tribal Gaming Ordinance for our review and approval. The NIGC staff and I look forward to working with you and the Lytton Rancheria on future gaming issues. If you have any questions or require assistance, please contact Denise Desiderio or John Hay in the Office of the General Counsel, at 202-632-7003.

Sincerely,

Philip N. Hogen
Chairman

LYTTON RANCHERIA • Lytton Band of Pomo Indians

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MAR 20 2008

**RESOLUTION OF THE TRIBAL COUNCIL**
**OF**
**LYTTON RANCHERIA OF CALIFORNIA**

**Re[illegible]al, Adoption and/or Amendment of Tribal Gaming Ordinance/Regulation**

**RESOLUTION NO. 013008 – 2**

**WHEREAS,** The Lytton Rancheria of California, aka Lytton Band of Pomo Indians (Tribe) is a federally recognized American Indian Tribe recognized by the United States Secretary of the Interior as having jurisdiction over Indian Lands in California which are eligible for gaming under the Indian Gaming Regulatory Act, 25 U.S.C. 2700 et. seq. (IGRA); and

**WHEREAS,** The Tribal Council is the governing body of the Tribe and is empowered to enact Ordinances under Articles X and XIII of the Tribe's Constitution; and

**WHEREAS,** The Tribal Council duly adopted a Tribal Gaming Code, enacted July 8, 1999, which addresses its laws relating to gaming and now wishes to better organize and standardize the format of said laws; and

**WHEREAS,** The Tribal Council duly adopted the Tribal Gaming Code and now wishes to repeal that code and replace it with a recently adopted Gaming Ordinance, Regulations Establishing the Tribal Gaming Commission, and Licensing and Background Investigation Regulations.

**NOW THEREFORE BE IT RESOLVED:** That the Tribe, acting through its Tribal Council, hereby repeals the Lytton Band of Pomo Indians Tribal Gaming Code, enacted July 8, 1999 and replaces it with the Lytton Rancheria of California aka Lytton Band of Pomo Indians Amended Tribal Class II and Class III Gaming Ordinance, Regulations Establishing the Lytton Gaming Commission, and Licensing and Background Investigation Regulations, enacted 1/30, 2008.

**CERTIFICATION**

On January 30th, 2008, theTribal Council of the Lytton Rancheria of California aka Lytton Band of Pomo Indians, at a duly called meeting at which a quorum was present, did pass this Resolution by a vote of 5 ayes; 0 nays; 0 abstentions.

Margie Mejia

Margie Mejia, Chairperson

Danny Ocampo, Tribal Secretary

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**ORDINANCE NO.**

# LYTTON RANCHERIA OF CALIFORNIA
# aka
# LYTTON BAND OF POMO INDIANS
# AMENDED TRIBAL CLASS II AND CLASS III GAMING ORDINANCE

## I. Purpose

The Tribal Council of the Lytton Rancheria of California aka the Lytton Band of Pomo Indians (hereinafter "Tribe"), empowered by Article X and Article XIII of the Tribe's Constitution to enact ordinances, hereby amends its Tribal Gaming Code, dated July 6, 1999, in order to set the terms for Class II and III gaming activities on tribal lands as well.

## II. Gaming Authorized

A. All forms of Class II gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(7)(A) ("IGRA") are hereby authorized, including but not limited to bingo, pulltabs, and non-banking card games.

B. All forms of Class III gaming as defined in the Indian Gaming Regulatory Act, P.L. 100-447, 25 U.S.C. Section 2703(8) ("IGRA") and authorized by a Compact between the Tribe and the State of California are hereby authorized.

## III. Definitions

"Compact" means a Tribal-State Gaming Compact between the Tribe and the State of California authorizing Class III gaming activities, as required by IGRA, 25 U.S.C. § 2710(d)(1)(C) and amended from time to time.

"NIGC" means the National Indian Gaming Commission.

"Tribal Council" means the seven (7) member committee composed of elected tribal officials authorized to represent the Tribe pursuant to the Tribe's Constitution.

"Tribal Gaming Commission" means the Lytton Gaming Commission established by the Tribe to serve as the Tribe's gaming regulatory body.

## IV. Ownership of Gaming

The Tribe shall maintain the sole propriety interest in and responsibility for the conduct of all Class II and Class III gaming activities authorized by this ordinance.



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## V. Use of Gaming Revenue

A. Net revenues from the Tribe's share of Class II and Class III gaming activities authorized herein shall be used only for the following purposes: to fund tribal government operations and programs; provide for general welfare of the Tribe and its members; promote tribal economic development; donate to charitable organizations; or help fund operations of local government agencies.

B. If the Tribe elects to make per capita payments to tribal members, it shall authorize such payments only pursuant to its Plan for the Allocation of Gaming Revenue, approved by the Secretary of the Interior under §2710(b)(3) of IGRA.

## VI. Audit & Agreed Upon Procedures

A. Class II Gaming

1. The Tribal Gaming Commission shall cause to be conducted annually an independent audit of gaming operations and shall submit the resulting audit reports to the NIGC.

2. All gaming related contracts that result in the purchase of supplies, services, or concessions in excess of twenty five thousand ($25,000) annually, except for contracts for professional legal and accounting services, shall be included within the scope of the audit that is described in paragraph A above.

3. The Tribal Gaming Commission shall ensure an independent certified public accountant shall be engaged annually to perform Agreed Upon Procedures in the manner provided for in 25 CFR Part 542.3(f) to verify compliance with the minimum internal controls standards ("MICS") adopted by the Tribe that provide a level of control that equals or exceeds those federal MICS set forth at 25 C.F.R. Part 542 applicable to the Gaming Operation and contain standards for currency transaction reporting that comply with 31 CFR Part 103.

B. Class III Gaming

Audits shall be conducted as required by a Compact.

## VII. Environmental Protection

The construction, maintenance and operation of Class II and Class III gaming facilities and Class II and Class III games shall be conducted in a manner which adequately protects the environment and the public health and safety.



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## VIII. Licenses for Key Employees and Primary Management Officials

The Tribal Gaming Commission shall ensure that the policies and procedures set out in this section are implemented with respect to key employees and primary management officials employed at any Class II and/or Class III gaming enterprise operated on tribal lands:

A. Definitions

For the purposes of this section, the following definitions apply:

1. Key employee.

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

(1) Bingo caller;
(2) Counting room supervisor;
(3) Chief of security;
(4) Custodian of gaming supplies or cash;
(5) Floor manager;
(6) Pit boss;
(7) Dealer;
(8) Croupier;
(9) Approver of credit; or
(10) Custodian of gambling devices including persons with access to cash and accounting records within such devices;

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

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

(d) If not otherwise included, any person or entity designated by the Tribe or a Compact as an individual who must be licensed.

2. Primary Management Official.

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

(b) Any person who has authority:

(1) To hire and fire employees; or

(2) To set up working policy for the gaming operation; or



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(c) The chief financial officer or other person who has financial management responsibility.

B. Application Forms

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 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.

2. 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. (U.S. Code, title 18, section 1001.)

C. Background Investigations:

1. The Tribal Gaming Commission shall ensure that all of the following information is requested from each primary management official and from each key employee:



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(a) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, 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 drivers' license numbers;

(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 under paragraph 2(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;

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

(g) The name and address of any licensing or regulatory agency with which 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 name and address of the court involved, and the date and disposition, if any;

(i) For each misdemeanor conviction or ongoing 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;

(j) For each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraphs 2(h) and 2(i) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(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, whether or not such license or permit was granted;



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(l) A current photograph;

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

(n) Any other information the Tribal Gaming Commission deems relevant.

2. The Tribal Gaming Commission shall conduct, or cause to be conducted, an investigation sufficient to make a determination under paragraph D of this section. In conducting a background investigation, the Tribal Gaming Commission, or its designee, shall promise to keep confidential the identity of each person interviewed in the course of the investigation.

D. Eligibility Determination

1. The Tribal 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 a primary management official for employment in a gaming operation. If the Tribal Gaming Commission 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, such person is not suitable for a tribal gaming license, and the tribal gaming operation shall not employ that person in a key employee or primary management official position.

2. Without limiting the foregoing, a person who has supplied materially false or misleading information with respect to the required information for that person's background investigation under paragraph C of this section is not suitable for a tribal gaming license pursuant to paragraph 1 above.

3. The Tribe's gaming operation shall not employ in a key employee position associated with Class III gaming activity any applicant who fails to meet any necessary suitability requirements under a Compact.

E. Procedures for Forwarding Applications and Reports for Key Employees and Primary Management Officials to the NIGC

1. Unless otherwise provided for by the NIGC, when a key employee or primary management official begins work, the Tribal Gaming Commission shall forward to the NIGC a completed application and conduct the background investigation and make the determination referred to in the foregoing paragraphs of this section.



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2. Upon completion, the Tribal Gaming Commission shall forward the report referred to in paragraph F of this section to the NIGC within sixty (60) days after an employee begins work.

3. The gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

F. Report to NIGC

1. Pursuant to the procedures set out in paragraph E of this section, the Tribal Gaming Commission shall prepare and forward to the NIGC an investigative report on each background investigation. An investigative report shall include all of the following:

(a) Steps taken in conducting a background investigation;

(b) Results obtained;

(c) Conclusions reached;

(d) The bases for those conclusions; and

(e) A copy of the eligibility determination made under paragraph D of this section.

2. If a license is not issued to an applicant the Tribal Gaming Commission shall:

(a) Notify the NIGC; and

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

3. With respect to key employees and primary management officials, the Tribal Gaming Commission shall retain applications and reports (if any) of background investigations for inspection by the Chairman of the NIGC or his or her designee for no less than three (3) years from the date of termination of employment.

G. Granting a Gaming License

1. If, within a thirty (30) day period after the NIGC receives a report, the NIGC notifies the Tribal Gaming Commission that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribe has provided an application and investigative



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report to the NIGC, the Tribal Gaming Commission may go forward and issue a license to such applicant.

2. The Tribal Gaming Commission shall respond to a request for additional information from the Chairman of the NIGC concerning a key employee or a primary management official who is the subject of a report. Such a request shall suspend the thirty (30) day period under paragraph G.1 of this section until the Chairman of the NIGC receives the additional information.

3. If, within the thirty (30) day period described above, the NIGC provides the Tribal Gaming Commission with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribal Gaming Commission has provided an application and investigative report to the NIGC, the Tribal Gaming Commission shall reconsider the application, taking into account the objections itemized by the NIGC.

4. The Tribal Gaming Commission shall ensure compliance with any other procedures regarding licensure which may be required under a Compact.

H. License Suspension

1. If, after the issuance of a gaming license, the Tribal Gaming Commission receives from the NIGC reliable information indicating that a key employee or a primary management official is not eligible for employment under paragraph D above, the Tribal Gaming Commission shall suspend such license and shall notify in writing the licensee of the suspension and the proposed revocation. The Tribal Gaming Commission shall make the final decision whether to issue a license to such applicant.

2. The Tribal Gaming Commission shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

3. After a revocation hearing, the Tribal Gaming Commission shall decide to revoke or to reinstate a gaming license. The Tribal Gaming Commission decision shall be final. The Tribal Gaming Commission shall notify the NIGC of its decision.

## IX. License Locations

The Tribal Gaming Commission shall issue a separate license to each place, facility, or location on Indian lands where Class II and Class III gaming is conducted under this ordinance.

## X. Customer Dispute Resolution Procedure

The general manager of the tribal gaming operation shall attempt to resolve on an informal basis any customer complaints relating to the play or operation of a game. If the complaint cannot be resolved at the general manager level, the customer shall be informed that



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he/she has the right to submit his or her complaint to the Tribal Gaming Commission whose decision will be final.

## XI. IGRA & MICS Compliance

The Tribe and/or the Tribal Gaming Commission shall ensure enforcement of rules and regulations for all games played to ensure that they conform to the IGRA, including any effective Compact, and that the games are honest and fair.

The Tribal Gaming Commission shall monitor compliance of the Gaming Operation with the minimum internal controls standards adopted by the Tribe that provide a level of control that equals or exceeds those set forth at 25 C.F.R. Part 542 applicable to the Gaming Operation and contain standards for currency transaction reporting that comply with 31 CFR Part 103.

## XII. Amendments

The Tribal Council may amend this Ordinance in any manner deemed appropriate to protect the Tribe's best interests so long as any such amendment complies with all applicable federal law and is consistent with the terms of any effective Compact.

## XIII. Repeal

The Lytton Band of Pomo Indians' Tribal Gaming Code dated July 8, 1999, and any other prior gaming ordinances are hereby repealed. Any references to the Tribal Gaming Code shall be deemed a reference to this Ordinance.

## CERTIFICATION

On January 30, 2008, the Tribal Council of the Lytton Rancheria of California aka Lytton Band of Pomo Indians, at a duly called meeting at which a quorum was present, did pass this Ordinance by a vote of 5 ayes; 0 nays; 0 abstentions.

Margie Mejia
Tribal Chairperson

Tribal Secretary



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